

**CHAPTER 691. JUDICIARY**

**RESIGNATION OR RETIREMENT OF SUPREME COURT JUSTICES**  
**Act 122 of 1925**

**691.2 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**

**RULES OF APPELLATE PROCEDURE**  
**Act 27 of 1929**

**691.21 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**

**JUDICIAL COUNCIL**  
**Act 64 of 1929**

**691.31-691.33 Repealed. 1955, Act 180, Eff. Oct. 14, 1955.**

**STATE BAR OF MICHIGAN**  
**Act 58 of 1935**

**691.51,691.52 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**

**THE COURT OF CLAIMS ACT**  
**Act 135 of 1939**

**691.101-691.123a Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**

**ABOLISHING DEFENSE OF GOVERNMENTAL FUNCTION**  
**Act 87 of 1945**

**691.141 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**

**ABOLISHING DEFENSE OF GOVERNMENTAL FUNCTION**  
**Act 127 of 1945**

**691.151-691.152 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**

**PRESIDING CIRCUIT JUDGE**  
**Act 213 of 1915**

**691.201-691.203 Repealed. 1954, Act 195, Eff. Aug. 13, 1954.**

**ABSENCE OR DISABILITY OF CIRCUIT JUDGE**  
**Act 104 of 1925**

**691.211-691.213 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**

**DEATH OF JUDGE**  
**Act 242 of 1915**

**691.221 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**

**SPECIAL TERMS OF CIRCUIT COURTS**  
**Act 313 of 1927**

**691.231-691.233 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**

**TERMS OF COURT; INGHAM COUNTY**  
**Act 125 of 1895**

**691.248,691.252 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**

**TERMS OF COURT; CALHOUN COUNTY**  
**Act 272 of 1905**

**691.261-691.266 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**

**RESIGNATION OR RETIREMENT OF CIRCUIT JUDGE**  
**Act 91 of 1929**

**691.271,691.272 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**

**CIRCUIT COURT COMMISSIONER; ADDITIONAL SALARY**  
**Act 224 of 1921**

**691.281 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**

**CIRCUIT COURT STENOGRAPHERS**  
**Act 183 of 1897**

**691.301-691.352 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**

**CIRCUIT COURT JURY**  
**Act 270 of 1941**

**691.401,691.402 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**

**SELECTION OF JURORS IN UPPER PENINSULA**  
**Act 26 of 1895**

**691.411-691.416 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**

**JURY OF 14**  
**Act 93 of 1931**

**691.421,691.423 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**

**CHARGE OR INSTRUCTION TO JURY**  
**Act 67 of 1869**

**691.431-691.434 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**

**BOARD OF JURY COMMISSIONERS; WAYNE COUNTY**  
**Act 204 of 1893**

**691.441-691.466 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**

**JURORS; WAYNE COUNTY**  
**Act 31 of 1903**

**691.473,691.474 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**

**PUBLIC SECURITIES VALIDATION ACT**  
**Act 161 of 1959**

**691.481-691.492 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**

**DECLARATIONS OF RIGHTS**  
**Act 36 of 1929**

**691.501-691.507 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**

**ACTIONS BY AND AGAINST COMMON CARRIERS**  
**Act 315 of 1927**

**691.521-691.524 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**

**MINORS' CONTRACTS**  
**Act 123 of 1941**

**691.531 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**

**THIRD PARTY BENEFICIARIES**  
**Act 296 of 1937**

**691.541-691.545 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**

**JOINT TORT-FEASORS**  
**Act 303 of 1941**

**691.561-691.564 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**

**JOINT TORT-FEASORS IN LIBEL CASES**  
**Act 233 of 1911**

**691.571 Repealed. 1961, Act 236, Eff. Jan. 1, 1960.**

**DEATH BY WRONGFUL ACT**  
**Act 38 of 1848**

**691.581-691.583 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**

**MARRIAGE AS BAR TO ACTION FOR DAMAGES**  
**Act 280 of 1905**

**691.591 Repealed. 1961, Act 236, Eff. Jan. 1, 1960.**

**PROCESS AGAINST DOMESTIC INSURANCE COMPANY**  
**Act 255 of 1929**

**691.601 Repealed. 1961, Act 236, Eff. Jan. 1, 1960.**

**PUBLICATION OF NOTICES IN NEWSPAPER**  
**Act 294 of 1929**

**691.611,691.612 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**

**REVISED STATUTES OF 1846**

**691.626 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**

**UNIFORM FOREIGN DEPOSITIONS ACT**  
**Act 179 of 1921**

**691.631-691.633 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**

**UNIFORM PROOF OF STATUTES ACT**  
**Act 178 of 1921**

**691.641-691.643 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**

**LIBRARY RECORDS**  
**Act 142 of 1925**

**691.651-691.654 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**

**STATE, LOCAL GOVERNMENTAL, AND MUNICIPAL COURT RECORDS**  
**Act 7 of 1941**

**691.661,691.662 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**

**PHYSICAL EXAMINATION OF PARTIES**  
**Act 18 of 1941**

**691.671 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**

**DISCONTINUANCE OR NON-SUIT**  
**Act 200 of 1915**

**691.681 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**

**JUDGMENT NOTWITHSTANDING VERDICT**  
**Act 217 of 1915**

**691.691-691.693 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**

**JUDGMENT AFTER DISAGREEMENT OF JURY**  
**Act 73 of 1927**

**691.701 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**

**INSTALLMENT PAYMENT OF JUDGMENTS**  
**Act 106 of 1935**

**691.711-691.721 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**

**TOWNSHIP BONDS**  
**Act 144 of 1897**

**691.731-691.737 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**

**FILING SECURITY FOR DAMAGES OR COSTS BY UNITED STATES**  
**Act 13 of 1937**

**691.751 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**

**CITY BONDS**  
**Act 86 of 1911**

**691.761,691.762 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**

**CASH OR SECURITIES IN LIEU OF BAIL OR BOND**  
**Act 212 of 1929**

**691.771-691.776 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**

**GARNISHMENT; MILK OR CREAM PRODUCERS**  
**Act 31 of 1937**

**691.781 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**

**ASSIGNMENT OF FUTURE WAGES**  
**Act 184 of 1933**

**691.801-691.813 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**  
**REVISED STATUTES OF 1846**

**691.830-691.843 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**

**REPLEVIN AND ATTACHMENT**  
**Act 84 of 1925**

**691.851 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**

**SALARIES OF JUSTICES**  
**Act 214 of 1917**

**691.871-691.873 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**

**SALARIES OF CLERKS IN JUSTICE COURTS**  
**Act 151 of 1919**

**691.881-691.883 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**

**JUSTICE COURT FEES**  
**Act 185 of 1921**

**691.891 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**

**ASSIGNMENTS OF ACCOUNTS RECEIVABLE**  
**Act 309 of 1945**

**691.901-691.911 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**

**ADMISSION IN EVIDENCE OF PHOTOSTATIC BUSINESS RECORDS**  
**Act 304 of 1949**

**691.921 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**

**REPRODUCTION OF FILED OR RECORDED DOCUMENTS**  
**Act 116 of 1956**

**691.931-691.934 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**

**ADDITIONAL PLACE FOR HOLDING CIRCUIT COURT; ST. JOSEPH COUNTY**  
**Act 130 of 1957**

**691.951, 691.952 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.**

**EMERGENCY INTERIM JUDICIAL SUCCESSION ACT**  
**Act 227 of 1963**

AN ACT to provide, in the event of an enemy attack on the United States, for the continuity of judicial functions of the state and the political subdivisions, by providing for automatic interim emergency succession for judges.

**History:** 1963, Act 227, Eff. Sept. 6, 1963.

*The People of the State of Michigan enact:*

**691.971 Emergency interim judicial succession act; short title.**

Sec. 1. This act shall be known and may be cited as the “emergency interim judicial succession act”.

**History:** 1963, Act 227, Eff. Sept. 6, 1963.

**Compiler's note:** The enrolled bill was presented to the Governor on May 8, 1963, and became a law without his approval upon the expiration of 10 days, Sundays excepted, after presentation.

**691.972 Emergency interim judicial succession act; definitions.**

Sec. 2. As used in this act:

(a) “Unavailable” means that the lawful incumbent of the office is absent or unable to exercise the powers and discharge the duties of the office.

(b) “Emergency interim successor” means a person designated pursuant to this act who, in the event the judge is unavailable, is to exercise the powers and discharge the duties of office until a successor is appointed or elected and qualified as may be provided by law or until the lawful incumbent is able to resume the exercise of the powers and discharge the duties of the office.

(c) “Attack” means any attack or series of attacks by an enemy of the United States causing, or which may cause, substantial damage or injury to civilian property or persons in the United States in any manner by sabotage or by the use of bombs, missiles, shellfire, or atomic, radiological, chemical, bacteriological or biological means or other weapons or processes.

(d) “Political subdivisions” includes counties, cities, towns, villages, townships, districts, authorities, and other public corporations and entities whether organized and existing under charter or general law.

**History:** 1963, Act 227, Eff. Sept. 6, 1963.

**691.973 Judges; unavailability; special emergency judges, designations, duration of service.**

Sec. 3. (1) If any judge of any court is unavailable to exercise the powers and discharge the duties of his office, and if no other judge authorized to act in the event of absence, disability or vacancy or no special judge appointed in accordance with law is available to exercise the powers and discharge the duties of the office, the duties of the office shall be discharged and the powers exercised by the special emergency judges hereinafter provided for:

(a) The governor, upon approval of this act, shall designate not less than 3 special emergency judges for each member of each court of record and specify the order of their succession. These courts shall include the supreme court, circuit courts, probate courts, common pleas court of Detroit, recorder's court of Detroit, superior court of Grand Rapids and any state or other municipal court of record.

(b) Upon the approval of this act, the duly appointed or elected authority of a political subdivision which has the authority to appoint successors to justices of courts not of record, shall designate for each member of each such court not of record, special emergency justices of not less than 3 for each member of each court and specify their order of succession.

(2) Special emergency judges, in the order specified, shall exercise the powers and discharge the duties of such office in case of the unavailability of the regular judges or persons immediately preceding them in the designation. The designating authority shall review and revise, as necessary, designations made pursuant to this act to insure their current status.

(3) Special emergency judges shall discharge the duties and exercise the powers of such office until such time as a vacancy is filled in accordance with the constitution and statutes or until the regular judge or one preceding the designee in the order of succession becomes available to exercise the powers and discharge the duties of the office.

**History:** 1963, Act 227, Eff. Sept. 6, 1963.

**691.974 Special emergency judges; oath.**

Sec. 4. At the time of their designation special emergency judges shall take such oath as may be required

for them to exercise the powers and discharge the duties of the office to which they may succeed. Notwithstanding any other provision of law, no person, as a prerequisite to the exercise of the powers or discharge of the duties of an office to which he succeeds, shall be required to comply with any other provision of law relative to taking office.

**History:** 1963, Act 227, Eff. Sept. 6, 1963.

**691.975 Special emergency judges; powers and duties; termination of authority by legislature.**

Sec. 5. Those authorized to act as special emergency judges may exercise the powers and discharge the duties of office only after an attack upon the United States has occurred. The legislature by concurrent resolution at any time may terminate the authority of the special emergency judges to exercise the powers and discharge the duties of office.

**History:** 1963, Act 227, Eff. Sept. 6, 1963.

**691.976 Special emergency judges; removal or replacement.**

Sec. 6. Until such time as the persons designated as special emergency judges are authorized to exercise the powers and discharge the duties of an office in accordance with this act, the persons shall serve in their designated capacities at the pleasure of the designating authority and may be removed or replaced by the designating authority at any time, with or without cause.

**History:** 1963, Act 227, Eff. Sept. 6, 1963.

**691.977 Questions of fact; adjudication.**

Sec. 7. Any dispute concerning a question of fact arising under this act shall be adjudicated by the governor, or other official authorized under the constitution and this act to exercise the powers and discharge the duties of the office of governor, and his decision shall be final.

**History:** 1963, Act 227, Eff. Sept. 6, 1963.



**VOID CONSTRUCTION CONTRACTS**  
**Act 165 of 1966**

AN ACT to invalidate certain requirements for indemnity in the construction industry.

**History:** 1966, Act 165, Eff. Mar. 10, 1967.

*The People of the State of Michigan enact:*

**691.991 Building construction; certain contracts for indemnification void.**

Sec. 1. A covenant, promise, agreement or understanding in, or in connection with or collateral to, a contract or agreement relative to the construction, alteration, repair or maintenance of a building, structure, appurtenance and appliance, including moving, demolition and excavating connected therewith, purporting to indemnify the promisee against liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of the promisee or indemnitee, his agents or employees, is against public policy and is void and unenforceable.

**History:** 1966, Act 165, Eff. Mar. 10, 1967.

**BOARD OF JURY COMMISSIONERS**  
**Act 104 of 1962**

**691.1001-691.1023 Repealed. 1968, Act 326, Eff. Nov. 15, 1968.**

**ACTIONS INVOLVING ELECTIONS**  
**Act 161 of 1969**

AN ACT to regulate the filing of certain actions involving elections.

**History:** 1969, Act 161, Eff. Mar. 20, 1970.

*The People of the State of Michigan enact:*

**691.1031 Actions involving elections; filing, laches.**

Sec. 1. In all civil actions brought in any circuit court of this state affecting elections, dates of elections, candidates, qualifications of candidates, ballots or questions on ballots, there shall be a rebuttable presumption of laches if the action is commenced less than 28 days prior to the date of the election affected. This section shall not apply to actions brought after the date of the affected election.

**History:** 1969, Act 161, Eff. Mar. 20, 1970.

**691.1032 Actions involving elections; exceptions.**

Sec. 2. This act shall not apply to actions based upon acts of the state legislature or the legislative body of any county, city, village or township when such acts take effect less than 28 days before the date of election.

**History:** 1969, Act 161, Eff. Mar. 20, 1970.

**PUBLICATION OF NOTICES IN NEWSPAPERS**  
**Act 247 of 1963**

AN ACT to define the term “newspaper” as used in the statutes of this state regarding publication of notices.

**History:** 1963, Act 247, Eff. Sept. 6, 1963.

*The People of the State of Michigan enact:*

**691.1051 Newspaper; definition; publication of notices.**

Sec. 1. The term “newspaper” as used in any statute of this state, except the revised judicature act of 1961 relative to the publication of a notice of any kind, shall be construed to refer only to a newspaper published in the English language for the dissemination of local or transmitted news and intelligence of a general character or for the dissemination of legal news, which

(a) has a bona fide list of paying subscribers or has been published at not less than weekly intervals in the same community without interruption for at least 2 years, and

(b) has been published and of general circulation at not less than weekly intervals without interruption for at least 1 year in the county, township, city, village or district where the notice is required to be published. A newspaper shall not lose eligibility for interruption of continuous publication because of acts of God, labor disputes or because of military service of the publisher for a period of not to exceed 2 years and provided publication is resumed within 6 months following the termination of such military service,

(c) annually averages at least 25% news and editorial content per issue. The term “news and editorial content” for the purpose of this section means any printed matter other than advertising.

If no newspaper so qualifies in the county where the court is situated, the term “newspaper” shall include any newspaper in an adjoining county which by this act is qualified to publish notice of actions commenced therein.

**History:** 1963, Act 247, Eff. Sept. 6, 1963.

**SUPREME COURT JUSTICES**  
**Act 52 of 1963 (2nd Ex. Sess.)**

AN ACT to provide for the extension of the terms of the incumbent supreme court justices; to provide for retirement benefits; to provide for the election of such justices and to fix the number of justices of the supreme court.

**History:** 1963, 2nd Ex. Sess., Act 52, Imd. Eff. Dec. 27, 1963.

*The People of the State of Michigan enact:*

**691.1061 Supreme court justices; extension of term of office.**

Sec. 1. The terms of office of the justices of the supreme court who are holding office on January 1, 1964 and whose terms would otherwise expire December 31, 1965, 1967, 1969 and 1971, are extended 1 year.

**History:** 1963, 2nd Ex. Sess., Act 52, Imd. Eff. Dec. 27, 1963;—Am. 1964, Act 145, Eff. Aug. 28, 1964.

**691.1062 Retirement act.**

Sec. 2. For the purpose of the retirement act, this additional period of service shall be considered a part of the term of office for which each of the respective justices was elected as provided in section 12 of Act No. 198 of the Public Acts of 1951, being section 38.812 of the Compiled Laws of 1948.

**History:** 1963, 2nd Ex. Sess., Act 52, Imd. Eff. Dec. 27, 1963.

**691.1063, 691.1064 Repealed. 1980, Act 180, Imd. Eff. July 2, 1980.**

**Compiler's note:** The repealed sections pertained to the first general election for justices of supreme court and to vacancy caused by death, retirement, or resignation.

## **REPRODUCTION OF PUBLIC RECORDS**

### **Act 105 of 1964**

AN ACT to provide for reproduction of records of this state, political subdivisions of this state, and municipal courts of record; and to provide for the use of those reproductions as evidence.

**History:** 1964, Act 105, Eff. Aug. 28, 1964;—Am. 1992, Act 187, Imd. Eff. Oct. 5, 1992.

*The People of the State of Michigan enact:*

#### **691.1101 Public records; reproduction; disposal; destruction.**

Sec. 1. If a department, commission, board, or officer of this state, a political subdivision, or a municipal court of record reproduces pursuant to the records media act records kept by or in the department, commission, board, office, or court, the department, commission, board, officer, or court may cause the original records to be disposed of or destroyed pursuant to sections 201, 285, 287, and 289 of the management and budget act, Act No. 431 of the Public Acts of 1984, being sections 18.1201, 18.1285, 18.1287, and 18.1289 of the Michigan Compiled Laws, if applicable, and section 5 of Act No. 271 of the Public Acts of 1913, as amended, being section 399.5 of the Michigan Compiled Laws. A record of a municipal court of record shall not be disposed of or destroyed unless the record has been in the custody of the court for at least 6 years.

**History:** 1964, Act 105, Eff. Aug. 28, 1964;—Am. 1992, Act 187, Imd. Eff. Oct. 5, 1992.

**Administrative rules:** R 18.101 et seq. of the Michigan Administrative Code.

#### **691.1102 Register of deeds; reproductions; duplication; storage; display.**

Sec. 2. The register of deeds of a county, if so instructed by a resolution of the county board of commissioners, may reproduce pursuant to the records media act a deed, mortgage, map, instrument, or writing recorded in his or her office and a record or index required by law to be kept by him or her. The register of deeds shall make reproductions in duplicate and store 1 reproduction in a building separate from his or her office. The register of deeds shall retain the other reproduction in his or her office with suitable equipment for displaying the record at not less than its original size or for preparing copies for persons entitled to copies.

**History:** 1964, Act 105, Eff. Aug. 28, 1964;—Am. 1992, Act 187, Imd. Eff. Oct. 5, 1992.

#### **691.1103 Reproductions; admissibility in evidence.**

Sec. 3. A reproduction of a record in a medium pursuant to the records media act or a reproduction consisting of a printout or other output readable by sight from such a medium prepared under any other law has the same force and effect as the original and shall be treated as an original for the purpose of admissibility in evidence. A duly certified or authenticated copy of the reproduction shall be admitted in evidence equally with the original reproduction.

**History:** 1964, Act 105, Eff. Aug. 28, 1964;—Am. 1992, Act 187, Imd. Eff. Oct. 5, 1992.

## **REPRODUCTION OF PUBLIC RECORDS**

### **Act 106 of 1964**

AN ACT to authorize the recording, copying, and recopying of documents, plats, papers, written instruments, records, and books on file or of record and the replacement and certification of originals previously filed and of record, by county and city officers; to provide for the effect and use of the copies, records, reproductions, or replacements and of transcripts or certified copies thereof; and to provide for revision of and entries to be made on originals so produced or replaced.

**History:** 1964, Act 106, Eff. Aug. 28, 1964;—Am. 1992, Act 213, Imd. Eff. Oct. 5, 1992.

*The People of the State of Michigan enact:*

#### **691.1111 Recording, copying, recopying, or replacing filed or recorded documents.**

Sec. 1. If an officer of a county or city is required or authorized by law to record, copy, recopy, or replace a document, plat, paper, written instrument, or book on file or of record in his or her office, the officer may do so pursuant to the records media act.

**History:** 1964, Act 106, Eff. Aug. 28, 1964;—Am. 1992, Act 213, Imd. Eff. Oct. 5, 1992.

#### **691.1112 Public records; copy or replacement; certification.**

Sec. 2. If an original document, plat, paper, written instrument, record, or book of record filed or of record in the office of an officer described in section 1 is copied or replaced, and the officer is required by law to certify in or on the copy or replacement that it is a true and correct copy of the original, a copy of the certification by the officer, similarly made and included at the end of the copy or replacement, complies with the law.

**History:** 1964, Act 106, Eff. Aug. 28, 1964;—Am. 1992, Act 213, Imd. Eff. Oct. 5, 1992.

#### **691.1113 Public records; correction, alteration and indorsement; procedure.**

Sec. 3. When any record or replacement thereof in the office of any such officer is produced by such process, a correction, alteration, indorsement or entry, required or authorized to be made of or on any instrument or paper or on the record thereof, may be made by filing or inserting copies or recopies produced by the same process of the page or part of the page, so corrected, altered, or on which such indorsement or entry is made, next to the place wherein the copy or record of such instrument or paper is contained or in such other manner as such officer shall deem advisable or practicable. The uncorrected or unaltered record or copy shall also be preserved in its original condition and location and not destroyed or obliterated. The re-recording, re-filing or new instrument shall contain a statement that it is given to correct, and shall state where the original record or file may be found.

**History:** 1964, Act 106, Eff. Aug. 28, 1964.

#### **691.1114 Transcripts.**

Sec. 4. Transcripts or certified copies of such copies, records, reproductions and replacements, shall be considered as transcripts or certified copies of the originals.

**History:** 1964, Act 106, Eff. Aug. 28, 1964.

#### **691.1115 Reproduction; admissibility in evidence.**

Sec. 5. A reproduction in a medium pursuant to the records media act or a reproduction consisting of a printout or other output readable by sight from such a medium, which reproduction is produced under this or any other law, shall be considered an original for all purposes and is admissible in evidence in like manner as the original.

**History:** 1964, Act 106, Eff. Aug. 28, 1964;—Am. 1992, Act 213, Imd. Eff. Oct. 5, 1992.

**UNIFORM FOREIGN-COUNTRY MONEY JUDGMENTS RECOGNITION ACT**  
**Act 20 of 2008**

AN ACT to revise the standards under which courts of this state recognize foreign money judgments; to establish procedures for the recognition of foreign money judgments; to limit the time within which an action to enforce a foreign money judgment may be commenced; to make uniform the law relating to the enforcement of foreign money judgments; and to repeal acts and parts of acts.

**History:** 2008, Act 20, Imd. Eff. Mar. 7, 2008.

*The People of the State of Michigan enact:*

**691.1131 Short title.**

Sec. 1. This act shall be known and may be cited as the "uniform foreign-country money judgments recognition act".

**History:** 2008, Act 20, Imd. Eff. Mar. 7, 2008.

**691.1132 Definitions.**

Sec. 2. As used in this act:

(a) "Foreign country" means a government other than any of the following:

(i) The United States.

(ii) A state, district, commonwealth, territory, or insular possession of the United States.

(iii) A federally recognized Indian tribe whose tribal court judgments are entitled to recognition and presumed to be valid under a court rule adopted by the supreme court.

(iv) Any other government with regard to which the decision in this state as to whether to recognize a judgment of that government's courts is initially subject to determination under the full faith and credit clause of the United States constitution.

(b) "Foreign-country judgment" means the judgment of a court of a foreign country.

**History:** 2008, Act 20, Imd. Eff. Mar. 7, 2008.

**691.1133 Applicability of act; scope.**

Sec. 3. (1) Except as otherwise provided in subsection (2), this act applies to a foreign-country judgment to the extent that both of the following apply:

(a) The judgment grants or denies recovery of a sum of money.

(b) Under the law of the foreign country where rendered, the judgment is final, conclusive, and enforceable.

(2) This act does not apply to a foreign-country judgment, even if the judgment grants or denies recovery of a sum of money, to the extent that the judgment is any of the following:

(a) A judgment for taxes.

(b) A fine or other penalty.

(c) A judgment for divorce, support, or maintenance or other judgment rendered in connection with domestic relations.

(3) A party seeking recognition of a foreign-country judgment has the burden of establishing that this act applies to the foreign-country judgment.

**History:** 2008, Act 20, Imd. Eff. Mar. 7, 2008.

**691.1134 Foreign-country judgment; recognition by court; burden for establishing ground for nonrecognition.**

Sec. 4. (1) Except as otherwise provided in subsections (2) and (3), a court of this state shall recognize a foreign-country judgment to which this act applies.

(2) A court of this state shall not recognize a foreign-country judgment if any of the following apply:

(a) The judgment was rendered under a judicial system that does not provide impartial tribunals or procedures compatible with the requirements of due process of law.

(b) The foreign court did not have personal jurisdiction over the defendant.

(c) The foreign court did not have jurisdiction over the subject matter.

(3) A court of this state need not recognize a foreign-country judgment if any of the following apply:

(a) The defendant in the proceeding in the foreign court did not receive notice of the proceeding in sufficient time to enable the defendant to defend.

(b) The judgment was obtained by fraud that deprived the losing party of an adequate opportunity to

present its case.

(c) The judgment or the cause of action on which the judgment is based is repugnant to the public policy of this state or of the United States.

(d) The judgment conflicts with another final and conclusive judgment.

(e) The proceeding in the foreign court was contrary to an agreement between the parties under which the dispute in question was to be determined otherwise than by proceedings in that foreign court.

(f) If jurisdiction was based only on personal service, the foreign court was a seriously inconvenient forum for the trial of the action.

(g) The judgment was rendered in circumstances that raise substantial doubt about the integrity of the rendering court with respect to the judgment.

(h) The specific proceeding in the foreign court leading to the judgment was not compatible with the requirements of due process of law.

(4) A party resisting recognition of a foreign-country judgment has the burden of establishing that a ground for nonrecognition stated in subsection (2) or (3) exists.

**History:** 2008, Act 20, Imd. Eff. Mar. 7, 2008.

#### **691.1135 Lack of personal jurisdiction; refusal of recognition prohibited; conditions; bases.**

Sec. 5. (1) A foreign-country judgment shall not be refused recognition for lack of personal jurisdiction if any of the following apply:

(a) The defendant was served with process personally in the foreign country.

(b) The defendant voluntarily appeared in the proceeding, other than for the purpose of protecting property seized or threatened with seizure in the proceeding or of contesting the jurisdiction of the court over the defendant.

(c) The defendant, before the commencement of the proceeding, agreed to submit to the jurisdiction of the foreign court with respect to the subject matter involved.

(d) The defendant was domiciled in the foreign country when the proceeding was instituted or was a corporation or other form of business organization that had its principal place of business in, or was organized under the laws of, the foreign country.

(e) The defendant had a business office in the foreign country and the proceeding in the foreign court involved a cause of action arising out of business done by the defendant through that office in the foreign country.

(f) The defendant operated a motor vehicle or airplane in the foreign country and the proceeding involved a cause of action arising out of that operation.

(2) The list of bases for personal jurisdiction in subsection (1) is not exclusive. The courts of this state may recognize bases of personal jurisdiction other than those listed in subsection (1) as sufficient to support a foreign-country judgment.

**History:** 2008, Act 20, Imd. Eff. Mar. 7, 2008.

#### **691.1136 Recognition of foreign-country judgment; raising action as original matter; raising action by counterclaim, cross-claim, or affirmative defense.**

Sec. 6. (1) If recognition of a foreign-country judgment is sought as an original matter, the issue of recognition shall be raised by filing an action seeking recognition of the foreign-country judgment.

(2) If recognition of a foreign-country judgment is sought in a pending action, the issue of recognition may be raised by counterclaim, cross-claim, or affirmative defense.

**History:** 2008, Act 20, Imd. Eff. Mar. 7, 2008.

#### **691.1137 Foreign-country judgment; findings.**

Sec. 7. If the court in a proceeding under section 6 finds that the foreign-country judgment is entitled to recognition under this act, then, to the extent that the foreign-country judgment grants or denies recovery of a sum of money, the foreign-country judgment is both of the following:

(a) Conclusive between the parties to the same extent as the judgment of a sister state entitled to full faith and credit in this state would be conclusive.

(b) Enforceable in the same manner and to the same extent as a judgment rendered in this state.

**History:** 2008, Act 20, Imd. Eff. Mar. 7, 2008.

#### **691.1138 Appeal; stay of proceedings.**

Sec. 8. If a party establishes that an appeal from a foreign-country judgment is pending or will be taken, the court may stay any proceedings with regard to the foreign-country judgment until the appeal is concluded,



the time for appeal expires, or the appellant has had sufficient time to prosecute the appeal and has failed to do so.

**History:** 2008, Act 20, Imd. Eff. Mar. 7, 2008.

**691.1139 Recognition of foreign-country judgment; commencement of action.**

Sec. 9. An action to recognize a foreign-country judgment shall be commenced within the earlier of the time during which the foreign-country judgment is effective in the foreign country or 15 years from the date that the foreign-country judgment became effective in the foreign country.

**History:** 2008, Act 20, Imd. Eff. Mar. 7, 2008.

**691.1140 Applicability and construction of act; promotion of uniformity of law.**

Sec. 10. In applying and construing this uniform act, a court shall consider the need to promote uniformity of the law with respect to its subject matter among states that enact it.

**History:** 2008, Act 20, Imd. Eff. Mar. 7, 2008.

**691.1141 Recognition of foreign-country judgment under principles of comity.**

Sec. 11. This act does not prevent the recognition under principles of comity or otherwise of a foreign-country judgment that is not within the scope of this act.

**History:** 2008, Act 20, Imd. Eff. Mar. 7, 2008.

**691.1142 Applicability of act.**

Sec. 12. This act applies to all actions commenced on or after the effective date of this act in which the issue of recognition of a foreign-country judgment is raised.

**History:** 2008, Act 20, Imd. Eff. Mar. 7, 2008.

**691.1143 Repeal of MCL 691.1151 to 691.1159.**

Sec. 13. The uniform foreign money-judgments recognition act, 1967 PA 191, MCL 691.1151 to 691.1159, is repealed.

**History:** 2008, Act 20, Imd. Eff. Mar. 7, 2008.

**UNIFORM FOREIGN MONEY-JUDGMENTS RECOGNITION ACT  
Act 191 of 1967**

**691.1151-691.1159 Repealed. 2008, Act 20, Imd. Eff. Mar. 7, 2008.**

**UNIFORM ENFORCEMENT OF FOREIGN JUDGMENTS ACT**  
**Act 502 of 1996**

AN ACT to provide for the enforcement of foreign judgments.

**History:** 1996, Act 502, Eff. June 1, 1997.

*The People of the State of Michigan enact:*

**691.1171 Short title.**

Sec. 1. This act shall be known and may be cited as the “uniform enforcement of foreign judgments act”.

**History:** 1996, Act 502, Eff. June 1, 1997.

**691.1172 “Foreign judgment” defined.**

Sec. 2. As used in this act, “foreign judgment” means any judgment, decree, or order of a court of the United States or of any other court that is entitled to full faith and credit in this state.

**History:** 1996, Act 502, Eff. June 1, 1997.

**691.1173 Foreign judgment; filing; effect.**

Sec. 3. A copy of a foreign judgment authenticated in accordance with an act of congress or the laws of this state may be filed in the office of the clerk of the circuit court, the district court, or a municipal court of this state. The clerk shall treat the foreign judgment in the same manner as a judgment of the circuit court, the district court, or a municipal court of this state. A judgment filed under this act has the same effect and is subject to the same procedures, defenses, and proceedings for reopening, vacating, or staying as a judgment of the circuit court, the district court, or a municipal court of this state and may be enforced or satisfied in like manner.

**History:** 1996, Act 502, Eff. June 1, 1997.

**691.1174 Foreign judgment; filing; affidavit; fee; notice of filing; enforcement.**

Sec. 4. (1) At the time of the filing of the foreign judgment, the judgment creditor or his or her attorney shall make and file with the clerk of the court an affidavit setting forth the name and last known address of the judgment debtor and the judgment creditor.

(2) At the time of the filing of the foreign judgment, the judgment creditor shall pay a filing fee as follows:

(a) In the circuit court, a sum equal to the amount required to file a civil action under section 2529 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.2529 of the Michigan Compiled Laws.

(b) In the district court, a sum equal to the amount required to file a civil action under section 8371 of Act No. 236 of the Public Acts of 1961, being section 600.8371 of the Michigan Compiled Laws. For the purposes of determining the amount of the filing fee, the amount in controversy shall equal the amount of the foreign judgment.

(c) In a municipal court, a sum equal to the amount required to file a civil action under section 28 of the Michigan uniform municipal court act, Act No. 5 of the Public Acts of 1956, being section 730.528 of the Michigan Compiled Laws. For the purposes of determining the amount of the filing fee, the amount in controversy shall equal the amount of the foreign judgment.

(3) Promptly after the foreign judgment and the affidavit have been filed, the clerk shall mail notice of the filing of the foreign judgment to the judgment debtor at the address provided by the judgment creditor or his or her attorney. The notice shall include the name and address of the judgment creditor and the judgment creditor's attorney, if any, in this state. In addition, the judgment creditor may mail a notice of the filing of the judgment to the judgment debtor and may file proof of mailing with the clerk. The clerk's failure to mail a notice of filing shall not affect the enforcement proceedings if proof of mailing by the judgment creditor has been filed.

(4) A foreign judgment filed under this act shall not be enforced until 21 days after the date notice of the filing of the foreign judgment is mailed.

**History:** 1996, Act 502, Eff. June 1, 1997.

**691.1175 Foreign judgment; stay of enforcement.**

Sec. 5. (1) If the judgment debtor shows the circuit court, the district court, or a municipal court that an appeal from the foreign judgment is pending or will be taken, or that a stay of execution has been granted, the court shall stay enforcement of the foreign judgment until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated, upon proof that the judgment debtor has furnished the security

for the satisfaction of the judgment required by the state in which it was rendered.

(2) If the judgment debtor shows the circuit court, the district court, or a municipal court any ground upon which enforcement of a judgment of the circuit court, the district court, or a municipal court of this state would be stayed, the court shall stay enforcement of the foreign judgment for an appropriate period, upon requiring the same security for satisfaction of the judgment that is required in this state.

**History:** 1996, Act 502, Eff. June 1, 1997.

**691.1176 Post judgment interest.**

Sec. 6. Post judgment interest will be awarded in accordance with the law of the jurisdiction in which the judgment was awarded.

**History:** 1996, Act 502, Eff. June 1, 1997.

**691.1177 Enforcement action by judgment creditor.**

Sec. 7. A judgment creditor may bring an action to enforce his or her judgment instead of proceeding under this act.

**History:** 1996, Act 502, Eff. June 1, 1997.

**691.1178 Interpretation and construction of act.**

Sec. 8. This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

**History:** 1996, Act 502, Eff. June 1, 1997.

**691.1179 Effective date.**

Sec. 9. This act shall take effect June 1, 1997.

**History:** 1996, Act 502, Eff. June 1, 1997.

**STRUCTURED SETTLEMENT PROTECTION ACT  
Act 330 of 2000**

**691.1191-691.1197 Repealed. 2006, Act 296, Eff. Oct. 1, 2006.**

**THOMAS J. ANDERSON, GORDON ROCKWELL ENVIRONMENTAL PROTECTION ACT OF  
1970  
Act 127 of 1970**

**691.1201-691.1207 Repealed. 1994, Act 451, Eff. Mar. 30, 1995.**

**REVISED STRUCTURED SETTLEMENT PROTECTION ACT**  
**Act 296 of 2006**

AN ACT to regulate the transfer of structured settlement rights; to place conditions on the transfer of structured settlement rights; to establish a procedure for approval of transfer of structured settlement rights; and to repeal acts and parts of acts.

**History:** 2006, Act 296, Eff. Sept. 1, 2006.

*The People of the State of Michigan enact:*

**691.1301 Short title.**

Sec. 1. This act shall be known and may be cited as the "revised structured settlement protection act".

**History:** 2006, Act 296, Eff. Sept. 1, 2006.

**691.1302 Definitions.**

Sec. 2. As used in this act:

(a) "Annuity issuer" means an insurer that has issued a contract to fund periodic payments under a structured settlement.

(b) "Dependent" means a payee's spouse, minor child, or any other person for whom the payee is legally obligated to provide support, including alimony.

(c) "Discounted present value" means the present value of future payments determined by discounting the payments to the present using the most recently published applicable federal rate for determining the present value of an annuity, as issued by the internal revenue service.

(d) "Gross advance amount" means the sum payable to the payee or for the payee's account as consideration for a transfer of structured settlement payment rights before reduction in that sum for transfer expenses or other deductions.

(e) "Imminent financial hardship" means the inability of the payee, because of a change in the payee's circumstances after the execution of the initial structured settlement agreement, to purchase or pay for 1 or more of the following without the transfer:

(i) Medical care or a medical device for the payee or the payee's dependents.

(ii) Living quarters for the payee.

(iii) A motor vehicle necessary for the payee's transportation if the payee has no other suitable transportation options.

(iv) Education or job training expenses.

(v) Debts of the payee resulting from child support, alimony, a tax lien, funeral expenses, or a judgment.

(f) "Independent professional advice" means advice of an attorney, certified public accountant, actuary, or other licensed professional adviser.

(g) "Interested party" means, with respect to a structured settlement, the payee, a beneficiary irrevocably designated under an annuity contract to receive payments following the payee's death, an annuity issuer, a structured settlement obligor, or any other person that has continuing rights or obligations under the structured settlement.

(h) "Net advance amount" means the gross advance amount less the aggregate amount of the actual and estimated transfer expenses required to be disclosed under section 3(e).

(i) "Payee" means an individual who receives tax free payments under a structured settlement and who proposes to make a transfer of payment rights under the structured settlement.

(j) "Periodic payments" means both recurring payments and scheduled future lump sum payments.

(k) "Qualified assignment agreement" means an agreement providing for a qualified assignment as defined in section 130 of the internal revenue code, 26 USC 130.

(l) "Settled claim" means the original tort claim resolved by a structured settlement.

(m) "Structured settlement" means an arrangement for periodic payment of damages for personal injuries or sickness established by settlement or judgment to resolve a tort claim. Structured settlement does not include an arrangement for periodic payments to settle a worker's compensation claim.

(n) "Structured settlement agreement" means an agreement, judgment, stipulation, or release embodying the terms of a structured settlement.

(o) "Structured settlement obligor" means, with respect to a structured settlement, a person that has a continuing obligation to make periodic payments to a payee under the structured settlement agreement or a qualified assignment agreement.

(p) "Structured settlement payment rights" means rights to receive periodic payments under a structured

settlement, whether from the structured settlement obligor or the annuity issuer, if 1 or more of the following conditions exist:

(i) The payee is domiciled in, or the domicile or principal place of business of the structured settlement obligor or the annuity issuer is located in, this state.

(ii) The structured settlement agreement was approved by a court in this state.

(iii) The structured settlement agreement is expressly governed by the laws of this state.

(q) "Terms of the structured settlement" means, with respect to a structured settlement, the terms of the structured settlement agreement, an annuity contract, a qualified assignment agreement, or an order or other approval of a court that authorized or approved the structured settlement.

(r) "Transfer" means a sale, assignment, pledge, hypothecation, or other alienation or encumbrance of structured settlement payment rights a payee makes for consideration; except that "transfer" does not include the creation or perfection of a security interest in structured settlement payment rights under a blanket security agreement entered into with an insured depository institution, unless action has been taken to redirect the structured settlement payments to the insured depository institution or to an agent or successor in interest of the depository institution, or action has been taken to otherwise enforce the blanket security interest against the structured settlement payment rights.

(s) "Transfer agreement" means an agreement providing for a transfer of structured settlement payment rights.

(t) "Transfer expenses" means all expenses of a transfer that the transfer agreement requires the payee to pay or have deducted from the gross advance amount, including, but not limited to, court filing fees, attorney fees, escrow fees, lien recordation fees, judgment and lien search fees, finders' fees, commissions, and other payments to a broker or other intermediary. Transfer expenses do not include preexisting obligations of the payee that are payable for the payee's account from the proceeds of a transfer.

(u) "Transferee" means a person acquiring or proposing to acquire structured settlement payment rights through a transfer.

**History:** 2006, Act 296, Eff. Sept. 1, 2006.

#### **691.1303 Separate disclosure statement to be provided by transferee; type; contents.**

Sec. 3. Not less than 3 days before the date on which a payee signs a transfer agreement, the transferee shall provide to the payee a separate disclosure statement in bold type no smaller than 14 points setting forth all of the following:

(a) The amounts and due dates of the structured settlement payments to be transferred.

(b) The aggregate amount of the payments.

(c) The discounted present value of the payments to be transferred, which shall be identified as the calculation of current value of the transferred structured settlement payments under federal standards for valuing annuities, and the amount of the applicable federal rate used in calculating the discounted present value.

(d) The gross advance amount.

(e) An itemized listing of all applicable transfer expenses, other than attorney fees and related disbursements payable in connection with the transferee's application for approval of the transfer, and the transferee's best estimate of the amount of the fees and disbursements.

(f) The net advance amount.

(g) The amount of penalties or liquidated damages payable by the payee if the payee breaches the transfer agreement.

(h) A statement that the payee has the right to cancel the transfer agreement without penalty or further obligation not later than the third business day after the date that the payee signs the agreement.

**History:** 2006, Act 296, Eff. Sept. 1, 2006.

#### **691.1304 Transfer of structured settlement payment rights; final court order; approval; basis; findings.**

Sec. 4. A direct or indirect transfer of structured settlement payment rights is not effective and a structured settlement obligor or annuity issuer is not required to make a payment directly or indirectly to a transferee of structured settlement payment rights unless the transfer has been approved in a final court order and the order is based on express findings of all of the following:

(a) The transfer is in the best interest of the payee, taking into account the welfare and support of the payee's dependents.

(b) The transferee has advised the payee, in writing, to seek independent professional advice regarding the transfer, and the payee has either received independent professional advice or knowingly waived in writing

the opportunity to seek advice.

(c) The transfer does not contravene an applicable statute or order of the court or other government authority.

(d) The discount rate or rates used in determining the discounted present value of the structured settlement payments to be transferred do not exceed 25% per year.

(e) If the transfer is inconsistent with a restriction against assignment in the structured settlement agreement and if the structured settlement obligor objects to the transfer based on the restriction against assignment before the hearing on the application for approval of the transfer, all of the following:

(i) The payee will suffer imminent financial hardship if the transfer is not approved.

(ii) The transfer will not render the payee unable to pay current or future normal living expenses.

(iii) The transfer order will restrict payment of the gross advance amount to direct payment to the provider of the goods or services that are the subject of the imminent financial hardship. If the total cost of the goods or services cannot be readily determined at the time of or within a reasonable time after the transfer, the court may exercise reasonable discretion in ordering such direct payments.

**History:** 2006, Act 296, Eff. Sept. 1, 2006.

### **691.1305 Transfer of structured settlement payment rights; effects.**

Sec. 5. A transfer of structured settlement payment rights under this act has all of the following effects:

(a) The structured settlement obligor and the annuity issuer are discharged and released from all liability for the transferred payments as to any person except the transferee.

(b) The transferee is liable to the structured settlement obligor and the annuity issuer for both of the following:

(i) If the transfer contravenes the terms of the structured settlement, the taxes incurred by the structured settlement obligor and the annuity issuer as a consequence of the transfer.

(ii) Other liabilities or costs, including reasonable costs and attorney fees, arising from the structured settlement obligor's and the annuity issuer's compliance with the order of the court or from the transferee's failure to comply with this act.

(c) An annuity issuer or a structured settlement obligor is not required to divide a periodic payment between the payee and a transferee or assignee or between 2 or more transferees or assignees.

(d) A payee may make a further transfer of structured settlement payment rights only after complying with all of the requirements of this act.

**History:** 2006, Act 296, Eff. Sept. 1, 2006.

### **691.1306 Transfer of structured settlement payment rights; application for approval; court jurisdiction; notice of proposed transfer.**

Sec. 6. (1) The transferee may apply for approval of a transfer of structured settlement payment rights with the court in the county in which the payee resides, in the county in which the structured settlement obligor or the annuity issuer maintains its principal place of business, or with the court that approved the structured settlement agreement.

(2) Not less than 20 days before the scheduled hearing on an application for approval of a transfer of structured settlement payment rights under section 4, the transferee shall file with the court and serve on all interested parties a notice of the proposed transfer and the application for its authorization, and shall include with the notice all of the following:

(a) A copy of the transferee's application.

(b) A copy of the transfer agreement.

(c) A copy of the disclosure statement required under section 3.

(d) A listing of each of the payee's dependents and each dependent's age.

(e) Notice that any interested party is entitled to support, oppose, or otherwise respond to the transferee's application, either in person or by counsel, by submitting written comments to the court or by participating in the hearing.

(f) Notice of the time and place of the hearing and of the manner in which and the time by which written responses to the application must be filed to be considered by the court. The time for filing written responses shall be not less than 15 days after service of the transferee's notice.

**History:** 2006, Act 296, Eff. Sept. 1, 2006.

### **691.1307 Waiver prohibited; scope and effect of act; failure to comply with act.**

Sec. 7. (1) A payee shall not waive a provision of this act.

(2) A transfer agreement entered into on or after the effective date of this act by a payee who resides in this

state shall provide that disputes under the transfer agreement, including a claim that the payee has breached the agreement, shall be determined in and under the laws of this state. A transfer agreement shall not authorize the transferee or any other person to confess judgment or consent to entry of judgment against the payee.

(3) A transfer of structured settlement payment rights that are life-contingent is not effective unless, before the date on which the payee signs the transfer agreement, the transferee has established and has agreed to maintain procedures reasonably satisfactory to the annuity issuer and the structured settlement obligor for both of the following:

(a) Periodically confirming the payee's survival.

(b) Giving the annuity issuer and the structured settlement obligor prompt written notice in the event of the payee's death.

(4) A payee who proposes to make a transfer of structured settlement payment rights shall not incur a penalty, forfeit an application fee or other payment, or otherwise incur liability to the proposed transferee or assignee based on the failure of the transfer to satisfy the conditions of this act.

(5) This act does not authorize a transfer of structured settlement payment rights in contravention of law or validate or invalidate a transfer under a transfer agreement entered into before the effective date of this act.

(6) The transferee has sole responsibility for complying with the requirements in section 3 and fulfilling the conditions in section 4 in a transfer of structured settlement payment rights. A structured settlement obligor or annuity issuer shall not bear any responsibility or liability arising from a transferee's failure to comply with those requirements or to fulfill those conditions.

**History:** 2006, Act 296, Eff. Sept. 1, 2006.

#### **691.1308 Applicability of act.**

Sec. 8. This act applies to a transfer of structured settlement payment rights under any transfer agreement entered into on or after the thirtieth day after the effective date of this act.

**History:** 2006, Act 296, Eff. Sept. 1, 2006.

#### **691.1309 Repeal of MCL 691.1191 to 691.1197.**

Sec. 9. The structured settlement protection act, 2000 PA 330, MCL 691.1191 to 691.1197, is repealed effective 30 days after the effective date of this act.

**History:** 2006, Act 296, Eff. Sept. 1, 2006.

#### **691.1310 Effective date.**

Sec. 10. This act takes effect September 1, 2006.

**History:** 2006, Act 296, Eff. Sept. 1, 2006.



## GOVERNMENTAL LIABILITY FOR NEGLIGENCE

### Act 170 of 1964

AN ACT to make uniform the liability of municipal corporations, political subdivisions, and the state, its agencies and departments, officers, employees, and volunteers thereof, and members of certain boards, councils, and task forces when engaged in the exercise or discharge of a governmental function, for injuries to property and persons; to define and limit this liability; to define and limit the liability of the state when engaged in a proprietary function; to authorize the purchase of liability insurance to protect against loss arising out of this liability; to provide for defending certain claims made against public officers, employees, and volunteers and for paying damages sought or awarded against them; to provide for the legal defense of public officers, employees, and volunteers; to provide for reimbursement of public officers and employees for certain legal expenses; and to repeal acts and parts of acts.

**History:** 1964, Act 170, Eff. July 1, 1965;—Am. 1970, Act 155, Imd. Eff. Aug. 1, 1970;—Am. 1978, Act 141, Imd. Eff. May 11, 1978;—Am. 1986, Act 175, Imd. Eff. July 7, 1986;—Am. 2002, Act 400, Imd. Eff. May 30, 2002.

**Compiler's note:** In *Hyde v. University of Michigan Regents*, 426 Mich 223 (1986), the Supreme Court stated that “1986 PA 175 was enacted, effective July 1, 1986.” Act 175 was approved by the Governor July 6, 1986, and filed with Secretary of State July 7, 1986.

**Popular name:** Governmental Immunity Act

*The People of the State of Michigan enact:*

#### 691.1401 Definitions.

Sec. 1. As used in this act:

(a) “Municipal corporation” means a city, village, or township or a combination of 2 or more of these when acting jointly.

(b) “Political subdivision” means a municipal corporation, county, county road commission, school district, community college district, port district, metropolitan district, or transportation authority or a combination of 2 or more of these when acting jointly; a district or authority authorized by law or formed by 1 or more political subdivisions; or an agency, department, court, board, or council of a political subdivision.

(c) “State” means the state of Michigan and its agencies, departments, commissions, courts, boards, councils, and statutorily created task forces and includes every public university and college of the state, whether established as a constitutional corporation or otherwise.

(d) “Governmental agency” means the state or a political subdivision.

(e) “Highway” means a public highway, road, or street that is open for public travel and includes bridges, sidewalks, trailways, crosswalks, and culverts on the highway. The term highway does not include alleys, trees, and utility poles.

(f) “Governmental function” is an activity that is expressly or impliedly mandated or authorized by constitution, statute, local charter or ordinance, or other law. Governmental function includes an activity, as directed or assigned by his or her public employer for the purpose of public safety, performed on public or private property by a sworn law enforcement officer within the scope of the law enforcement officer's authority.

(g) “Township” includes charter township.

(h) “Volunteer” means an individual who is specifically designated as a volunteer and who is acting solely on behalf of a governmental agency.

**History:** 1964, Act 170, Eff. July 1, 1965;—Am. 1986, Act 175, Imd. Eff. July 7, 1986;—Am. 1999, Act 205, Imd. Eff. Dec. 21, 1999;—Am. 2001, Act 131, Imd. Eff. Oct. 15, 2001.

**Compiler's note:** Section 3 of Act 175 of 1986 provides:

“(1) Sections 1, 7, and 13 of Act No. 170 of the Public Acts of 1964, as amended by this amendatory act, being sections 691.1401, 691.1407, and 691.1413 of the Michigan Compiled Laws, shall not apply to causes of action which arise before July 1, 1986.

“(2) Section 6a of Act No. 170 of the Public Acts of 1964, as added by this amendatory act, shall apply to cases filed on or after July 1, 1986.”

In *Hyde v. University of Michigan Regents*, 426 Mich 223 (1986), the Supreme Court stated that “1986 PA 175 was enacted, effective July 1, 1986.” Act 175 was approved by the Governor July 6, 1986, and filed with Secretary of State July 7, 1986.

Enacting section 1 of Act 205 of 1999 provides:

“Enacting section 1. Sections 1 and 2 of 1964 PA 170, MCL 691.1401 and 691.1402, as amended by this amendatory act, and section 2a, as added by this amendatory act, apply only to a cause of action arising on or after the effective date of this amendatory act.”

Enacting section 1 of Act 131 of 2001 provides:

“Enacting section 1. The provisions of this amendatory act do not limit or reduce the scope of a governmental function as defined by statute or common law.”

**Popular name:** Governmental Immunity Act



**691.1402 Repairing and maintaining highways; damages for bodily injury or damage to property; liability, procedure, and remedy as to county roads; judgment against state; payment of judgment; effect of contractual undertaking to perform work on state trunk line highway; limitations on duties of governmental agency; liability of municipal corporation.**

Sec. 2. (1) Except as otherwise provided in section 2a, each governmental agency having jurisdiction over a highway shall maintain the highway in reasonable repair so that it is reasonably safe and convenient for public travel. A person who sustains bodily injury or damage to his or her property by reason of failure of a governmental agency to keep a highway under its jurisdiction in reasonable repair and in a condition reasonably safe and fit for travel may recover the damages suffered by him or her from the governmental agency. The liability, procedure, and remedy as to county roads under the jurisdiction of a county road commission shall be as provided in section 21 of chapter IV of 1909 PA 283, MCL 224.21. The duty of the state and the county road commissions to repair and maintain highways, and the liability for that duty, extends only to the improved portion of the highway designed for vehicular travel and does not include sidewalks, trailways, crosswalks, or any other installation outside of the improved portion of the highway designed for vehicular travel. A judgment against the state based on a claim arising under this section from acts or omissions of the state transportation department is payable only from restricted funds appropriated to the state transportation department or funds provided by its insurer.

(2) If the state transportation department contracts with another governmental agency to perform work on a state trunk line highway, an action brought under this section for tort liability arising out of the performance of that work shall be brought only against the state transportation department under the same circumstances and to the same extent as if the work had been performed by employees of the state transportation department. The state transportation department has the same defenses to the action as it would have had if the work had been performed by its own employees. If an action described in this subsection could have been maintained against the state transportation department, it shall not be maintained against the governmental agency that performed the work for the state transportation department. The governmental agency also has the same defenses that could have been asserted by the state transportation department had the action been brought against the state transportation department.

(3) The contractual undertaking of a governmental agency to maintain a state trunk line highway confers contractual rights only on the state transportation department and does not confer third party beneficiary or other contractual rights in any other person to recover damages to person or property from that governmental agency. This subsection does not relieve the state transportation department of liability it may have, under this section, regarding that highway.

(4) The duty imposed by this section on a governmental agency is limited by sections 81131 and 82124 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81131 and 324.82124.

**History:** 1964, Act 170, Eff. July 1, 1965;—Am. 1990, Act 278, Imd. Eff. Dec. 11, 1990;—Am. 1996, Act 150, Imd. Eff. Mar. 25, 1996;—Am. 1999, Act 205, Imd. Eff. Dec. 21, 1999.

**Compiler's note:** Enacting section 1 of Act 205 of 1999 provides:

"Enacting section 1. Sections 1 and 2 of 1964 PA 170, MCL 691.1401 and 691.1402, as amended by this amendatory act, and section 2a, as added by this amendatory act, apply only to a cause of action arising on or after the effective date of this amendatory act."

**Popular name:** Governmental Immunity Act

**691.1402a Liability.**

Sec. 2a. (1) Except as otherwise provided by this section, a municipal corporation has no duty to repair or maintain, and is not liable for injuries arising from, a portion of a county highway outside of the improved portion of the highway designed for vehicular travel, including a sidewalk, trailway, crosswalk, or other installation. This subsection does not prevent or limit a municipal corporation's liability if both of the following are true:

(a) At least 30 days before the occurrence of the relevant injury, death, or damage, the municipal corporation knew or, in the exercise of reasonable diligence, should have known of the existence of a defect in a sidewalk, trailway, crosswalk, or other installation outside of the improved portion of the highway designed for vehicular travel.

(b) The defect described in subdivision (a) is a proximate cause of the injury, death, or damage.

(2) A discontinuity defect of less than 2 inches creates a rebuttable inference that the municipal corporation maintained the sidewalk, trailway, crosswalk, or other installation outside of the improved portion of the highway designed for vehicular travel in reasonable repair.

(3) A municipal corporation's liability under subsection (1) is limited by section 81131 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81131.

**History:** Add. 1999, Act 205, Imd. Eff. Dec. 21, 1999.

**Compiler's note:** Enacting section 1 of Act 205 of 1999 provides:

"Enacting section 1. Sections 1 and 2 of 1964 PA 170, MCL 691.1401 and 691.1402, as amended by this amendatory act, and section 2a, as added by this amendatory act, apply only to a cause of action arising on or after the effective date of this amendatory act."

**Popular name:** Governmental Immunity Act

**Popular name:** 2-Inch Rule

**Popular name:** 2 Inch Rule

### **691.1403 Defective highways; knowledge of defect, repair.**

Sec. 3. No governmental agency is liable for injuries or damages caused by defective highways unless the governmental agency knew, or in the exercise of reasonable diligence should have known, of the existence of the defect and had a reasonable time to repair the defect before the injury took place. Knowledge of the defect and time to repair the same shall be conclusively presumed when the defect existed so as to be readily apparent to an ordinarily observant person for a period of 30 days or longer before the injury took place.

**History:** 1964, Act 170, Eff. July 1, 1965.

**Popular name:** Governmental Immunity Act

### **691.1404 Notice of injury and defect in highway.**

Sec. 4. (1) As a condition to any recovery for injuries sustained by reason of any defective highway, the injured person, within 120 days from the time the injury occurred, except as otherwise provided in subsection (3) shall serve a notice on the governmental agency of the occurrence of the injury and the defect. The notice shall specify the exact location and nature of the defect, the injury sustained and the names of the witnesses known at the time by the claimant.

(2) The notice may be served upon any individual, either personally, or by certified mail, return receipt requested, who may lawfully be served with civil process directed against the governmental agency, anything to the contrary in the charter of any municipal corporation notwithstanding. In case of the state, such notice shall be filed in triplicate with the clerk of the court of claims. Filing of such notice shall constitute compliance with section 6431 of Act No. 236 of the Public Acts of 1961, being section 600.6431 of the Compiled Laws of 1948, requiring the filing of notice of intention to file a claim against the state. If required by the legislative body or chief administrative officer of the responsible governmental agency, the claimant shall appear to testify, if he is physically able to do so, and shall produce his witnesses before the legislative body, a committee thereof, or the chief administrative officer, or his deputy, or a legal officer of the governmental agency as directed by the legislative body or chief administrative officer of the responsible governmental agency, for examination under oath as to the claim, the amount thereof, and the extent of the injury.

(3) If the injured person is under the age of 18 years at the time the injury occurred, he shall serve the notice required by subsection (1) not more than 180 days from the time the injury occurred, which notice may be filed by a parent, attorney, next friend or legally appointed guardian. If the injured person is physically or mentally incapable of giving notice, he shall serve the notice required by subsection (1) not more than 180 days after the termination of the disability. In all civil actions in which the physical or mental capability of the person is in dispute, that issue shall be determined by the trier of the facts. The provisions of this subsection shall apply to all charter provisions, statutes and ordinances which require written notices to counties or municipal corporations.

**History:** 1964, Act 170, Eff. July 1, 1965;—Am. 1970, Act 155, Imd. Eff. Aug. 1, 1970;—Am. 1972, Act 28, Imd. Eff. Feb. 19, 1972

**Constitutionality:** Notice requirement provision of section held to arbitrarily split all tortfeasors into two differently treated subclasses: private tortfeasors to whom no notice of claim is required, and governmental tortfeasors to whom notice is required. Such treatment held to violate equal protection guarantee of US Const, am XIV, § 1, and Const 1963, art I, § 2. Reich v State Highway Department, 386 Mich 617; 194 NW2d 700 (1972).

The 120-day notice provision contained in this section does not violate the Michigan Constitution if it is posited as having the legitimate purpose of avoiding actual prejudice to the state. Hobbs v Department of State Highways, 398 Mich 90; 247 NW2d 754 (1975); Kerkstra v Department of State Highways, 398 Mich 103; 247 NW2d 759 (1975).

**Popular name:** Governmental Immunity Act

### **691.1405 Government owned vehicles; liability for negligent operation.**

Sec. 5. Governmental agencies shall be liable for bodily injury and property damage resulting from the negligent operation by any officer, agent, or employee of the governmental agency, of a motor vehicle of which the governmental agency is owner, as defined in Act No. 300 of the Public Acts of 1949, as amended, being sections 257.1 to 257.923 of the Compiled Laws of 1948.

**History:** 1964, Act 170, Eff. July 1, 1965.

**Popular name:** Governmental Immunity Act

#### **691.1406 Public buildings; dangerous condition; liability; notice, contents, service.**

Sec. 6. Governmental agencies have the obligation to repair and maintain public buildings under their control when open for use by members of the public. Governmental agencies are liable for bodily injury and property damage resulting from a dangerous or defective condition of a public building if the governmental agency had actual or constructive knowledge of the defect and, for a reasonable time after acquiring knowledge, failed to remedy the condition or to take action reasonably necessary to protect the public against the condition. Knowledge of the dangerous and defective condition of the public building and time to repair the same shall be conclusively presumed when such defect existed so as to be readily apparent to an ordinary observant person for a period of 90 days or longer before the injury took place. As a condition to any recovery for injuries sustained by reason of any dangerous or defective public building, the injured person, within 120 days from the time the injury occurred, shall serve a notice on the responsible governmental agency of the occurrence of the injury and the defect. The notice shall specify the exact location and nature of the defect, the injury sustained and the names of the witnesses known at the time by the claimant.

The notice may be served upon any individual, either personally, or by certified mail, return receipt requested, who may lawfully be served with civil process directed against the responsible governmental agency, anything to the contrary in the charter of any municipal corporation notwithstanding. If required by the legislative body or chief administrative officer of the responsible governmental agency, the claimant shall appear to testify, when physically able to do so, and shall produce his witnesses before the legislative body, a committee thereof, the chief administrative officer, his deputy, or a legal officer of the governmental agency, as directed by the legislative body or by the chief administrative officer of the responsible governmental agency, for examination under oath as to the claim, the amount thereof, and the extent of the injury. Notice to the state of Michigan shall be given as provided in section 4. No action shall be brought under the provisions of this section against any governmental agency, other than a municipal corporation, except for injury or loss suffered after July 1, 1965.

**History:** 1964, Act 170, Eff. July 1, 1965;—Am. 1970, Act 155, Imd. Eff. Aug. 1, 1970.

**Popular name:** Governmental Immunity Act

#### **691.1406a Subrogation.**

Sec. 6a. A governmental agency against whom judgment has been entered pursuant to this act may seek subrogation where it is available by law or by contract and recover contribution from each co-defendant and joint and several tortfeasor where appropriate pursuant to sections 2925a to 2925d of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being sections 600.2925a to 600.2925d of the Michigan Compiled Laws.

**History:** Add. 1986, Act 175, Imd. Eff. July 7, 1986.

**Constitutionality:** In *Hyde v University of Michigan Regents*, 426 Mich 223 (1986), the Supreme Court stated that “1986 PA 175 was enacted, effective July 1, 1986.” Act 175 was approved by the Governor July 6, 1986, and filed with Secretary of State July 7, 1986.

**Compiler's note:** Section 3 of Act 175 of 1986 provides:

“(1) Sections 1, 7, and 13 of Act No. 170 of the Public Acts of 1964, as amended by this amendatory act, being sections 691.1401, 691.1407, and 691.1413 of the Michigan Compiled Laws, shall not apply to causes of action which arise before July 1, 1986.

“(2) Section 6a of Act No. 170 of the Public Acts of 1964, as added by this amendatory act, shall apply to cases filed on or after July 1, 1986.”

**Popular name:** Governmental Immunity Act

#### **691.1407 Immunity from tort liability; intentional torts; immunity of judge, legislator, official, and guardian ad litem; definitions.**

Sec. 7. (1) Except as otherwise provided in this act, a governmental agency is immune from tort liability if the governmental agency is engaged in the exercise or discharge of a governmental function. Except as otherwise provided in this act, this act does not modify or restrict the immunity of the state from tort liability as it existed before July 1, 1965, which immunity is affirmed.

(2) Except as otherwise provided in this section, and without regard to the discretionary or ministerial nature of the conduct in question, each officer and employee of a governmental agency, each volunteer acting on behalf of a governmental agency, and each member of a board, council, commission, or statutorily created task force of a governmental agency is immune from tort liability for an injury to a person or damage to property caused by the officer, employee, or member while in the course of employment or service or caused by the volunteer while acting on behalf of a governmental agency if all of the following are met:

(a) The officer, employee, member, or volunteer is acting or reasonably believes he or she is acting within

the scope of his or her authority.

(b) The governmental agency is engaged in the exercise or discharge of a governmental function.

(c) The officer's, employee's, member's, or volunteer's conduct does not amount to gross negligence that is the proximate cause of the injury or damage.

(3) Subsection (2) does not alter the law of intentional torts as it existed before July 7, 1986.

(4) This act does not grant immunity to a governmental agency or an employee or agent of a governmental agency with respect to providing medical care or treatment to a patient, except medical care or treatment provided to a patient in a hospital owned or operated by the department of community health or a hospital owned or operated by the department of corrections and except care or treatment provided by an uncompensated search and rescue operation medical assistant or tactical operation medical assistant.

(5) A judge, a legislator, and the elective or highest appointive executive official of all levels of government are immune from tort liability for injuries to persons or damages to property if he or she is acting within the scope of his or her judicial, legislative, or executive authority.

(6) A guardian ad litem is immune from civil liability for an injury to a person or damage to property if he or she is acting within the scope of his or her authority as guardian ad litem. This subsection applies to actions filed before, on, or after May 1, 1996.

(7) As used in this section:

(a) "Gross negligence" means conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results.

(b) "Search and rescue operation" means an action by a governmental agency to search for, rescue, or recover victims of a natural or manmade disaster, accident, or emergency on land or water.

(c) "Search and rescue operation medical assistant" means an individual licensed to practice 1 or more of the occupations listed in subdivision (e), acting within the scope of the license, and assisting a governmental agency in a search and rescue operation.

(d) "Tactical operation" means a coordinated, planned action by a special operations, weapons, or response team of a law enforcement agency that is 1 of the following:

(i) Taken to deal with imminent violence, a riot, an act of terrorism, or a similar civic emergency.

(ii) The entry into a building, area, watercraft, aircraft, land vehicle, or body of water to seize evidence, or to arrest an individual for a felony, under the authority of a warrant issued by a court.

(iii) Training for the team.

(e) "Tactical operation medical assistant" means an individual licensed to practice 1 or more of the following, acting within the scope of the license, and assisting law enforcement officers while they are engaged in a tactical operation:

(i) Medicine, osteopathic medicine and surgery, or as a registered professional nurse, under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(ii) As an emergency medical technician, emergency medical technician specialist, or paramedic under part 209 of the public health code, 1978 PA 368, MCL 333.20901 to 333.20979.

**History:** 1964, Act 170, Eff. July 1, 1965;—Am. 1970, Act 155, Imd. Eff. Aug. 1, 1970;—Am. 1986, Act 175, Imd. Eff. July 7, 1986;—Am. 1996, Act 143, Eff. May 1, 1996;—Am. 1999, Act 241, Imd. Eff. Dec. 28, 1999;—Am. 2000, Act 318, Imd. Eff. Oct. 24, 2000;—Am. 2004, Act 428, Imd. Eff. Dec. 17, 2004;—Am. 2005, Act 318, Imd. Eff. Dec. 27, 2005.

**Compiler's note:** Section 3 of Act 175 of 1986 provides:

"(1) Sections 1, 7, and 13 of Act No. 170 of the Public Acts of 1964, as amended by this amendatory act, being sections 691.1401, 691.1407, and 691.1413 of the Michigan Compiled Laws, shall not apply to causes of action which arise before July 1, 1986.

"(2) Section 6a of Act No. 170 of the Public Acts of 1964, as added by this amendatory act, shall apply to cases filed on or after July 1, 1986."

Enacting section 1 of Act 318 of 2000 provides:

"Enacting section 1. This amendatory act applies only to a cause of action arising on or after the effective date of this amendatory act."

**Popular name:** Governmental Immunity Act

### **691.1407a Repealed. 1999, Act 241, Eff. Jan. 1, 2003.**

**Compiler's note:** The repealed section pertained to immunity of political subdivision and governmental agency from liability resulting from computer date failure.

**Popular name:** Governmental Immunity Act

### **691.1407b Repealed. 1999, Act 242, Eff. Jan. 1, 2003.**

**Compiler's note:** The repealed section pertained to immunity of municipal corporation from liability resulting from computer date failure.

**Popular name:** Governmental Immunity Act

**691.1407c Donated fire control or rescue equipment; liability; testing, repair, or maintenance; rights of employee or volunteer under MCL 418.101 to 418.941; "organized fire department" defined.**

Sec. 7c. (1) A municipal corporation, organized fire department, or agent of a municipal corporation or organized fire department that donates fire control or rescue equipment to another municipal corporation or organized fire department is not liable for damages for personal injury, death, or property damage proximately caused after the donation by a defect in the equipment.

(2) Before using equipment donated under subsection (1), a municipal corporation or organized fire department that receives the donated equipment shall have the equipment tested, repaired, or maintained if required by state or federal law, rule, or regulation. The municipal corporation or organized fire department shall not use the donated equipment unless the use is consistent with state and federal laws, rules, and regulations. Subject to subsection (3), a municipal corporation or organized fire department that complies with this subsection is not liable for damages for personal injury, death, or property damage proximately caused by a defect in the donated equipment.

(3) The immunity from liability provided by subsection (2) does not affect the rights of an employee or volunteer of the municipal corporation or organized fire department that receives the donated equipment to benefits under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, or any similar law.

(4) As used in this section, "organized fire department" means that term as defined in section 1 of the fire prevention code, 1941 PA 207, MCL 29.1.

**History:** Add. 2006, Act 244, Imd. Eff. June 30, 2006.

**Popular name:** Governmental Immunity Act

**691.1408 Claim or civil action against officer or employee of governmental agency for injuries caused by negligence; services of attorney; payment of claim; judgment for damages; indemnification; payment or settlement of judgment; criminal action against officer or employee of governmental agency; services of attorney; reimbursement for legal expenses; liability on governmental agency not imposed.**

Sec. 8. (1) Whenever a claim is made or a civil action is commenced against an officer, employee, or volunteer of a governmental agency for injuries to persons or property caused by negligence of the officer, employee, or volunteer while in the course of employment with or actions on behalf of the governmental agency and while acting within the scope of his or her authority, the governmental agency may pay for, engage, or furnish the services of an attorney to advise the officer, employee, or volunteer as to the claim and to appear for and represent the officer, employee, or volunteer in the action. The governmental agency may compromise, settle, and pay the claim before or after the commencement of a civil action. Whenever a judgment for damages is awarded against an officer, employee, or volunteer of a governmental agency as a result of a civil action for personal injuries or property damage caused by the officer, employee, or volunteer while in the course of employment and while acting within the scope of his or her authority, the governmental agency may indemnify the officer, employee, or volunteer or pay, settle, or compromise the judgment.

(2) When a criminal action is commenced against an officer or employee of a governmental agency based upon the conduct of the officer or employee in the course of employment, if the employee or officer had a reasonable basis for believing that he or she was acting within the scope of his or her authority at the time of the alleged conduct, the governmental agency may pay for, engage, or furnish the services of an attorney to advise the officer or employee as to the action, and to appear for and represent the officer or employee in the action. An officer or employee who has incurred legal expenses after December 31, 1975 for conduct prescribed in this subsection may obtain reimbursement for those expenses under this subsection.

(3) This section does not impose liability on a governmental agency.

**History:** 1964, Act 170, Eff. July 1, 1965;—Am. 1978, Act 141, Imd. Eff. May 11, 1978;—Am. 2002, Act 400, Imd. Eff. May 30, 2002.

**Popular name:** Governmental Immunity Act

**691.1409 Liability insurance; waiver of defense.**

Sec. 9. (1) A governmental agency may purchase liability insurance to indemnify and protect the governmental agency against loss or to protect the governmental agency and an agent, officer, employee, or volunteer of the governmental agency against loss on account of an adverse judgment arising from a claim for personal injury or property damage caused by the governmental agency or its agent, officer, employee, or volunteer. A governmental agency may pay premiums for the insurance authorized by this section out of



current funds.

(2) The existence of an insurance policy indemnifying a governmental agency against liability for damages is not a waiver of a defense otherwise available to the governmental agency in the defense of the claim.

**History:** 1964, Act 170, Eff. July 1, 1965;—Am. 2002, Act 400, Imd. Eff. May 30, 2002.

**Popular name:** Governmental Immunity Act

#### **691.1410 Claims against state, political subdivision, or municipal corporation; procedure.**

Sec. 10. (1) Claims against the state authorized under this act shall be brought in the manner provided in sections 6401 to 6475 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being sections 600.6401 to 600.6475 of the Michigan Compiled Laws, and against any political subdivision or municipal corporation by civil action in any court having jurisdiction.

(2) Except as otherwise provided in this act, any claim that is authorized under this act shall be subject to the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being sections 600.101 to 600.9947 of the Michigan Compiled Laws.

**History:** 1964, Act 170, Eff. July 1, 1965;—Am. 1986, Act 175, Imd. Eff. July 7, 1986.

**Constitutionality:** In Hyde v University of Michigan Regents, 426 Mich 223 (1986), the Supreme Court stated that “1986 PA 175 was enacted, effective July 1, 1986.” Act 175 was approved by the Governor July 6, 1986, and filed with Secretary of State July 7, 1986.

**Popular name:** Governmental Immunity Act

#### **691.1411 Claim against government agency; limitation of actions.**

Sec. 11. (1) Every claim against any governmental agency shall be subject to the general law respecting limitations of actions except as otherwise provided in this section.

(2) The period of limitations for claims arising under section 2 of this act shall be 2 years.

(3) The period of limitations for all claims against the state, except those arising under section 2 of this act, shall be governed by chapter 64 of Act No. 236 of the Public Acts of 1961.

**History:** 1964, Act 170, Eff. July 1, 1965.

**Constitutionality:** This section does not deny the equal protection of the law. Forest v Parmalee, 402 Mich 348; 262 NW2d 653 (1978).

**Popular name:** Governmental Immunity Act

#### **691.1412 Claims under act; defenses available.**

Sec. 12. Claims under this act are subject to all of the defenses available to claims sounding in tort brought against private persons.

**History:** 1964, Act 170, Eff. July 1, 1965.

**Popular name:** Governmental Immunity Act

#### **691.1413 Damage arising out of performance of proprietary function.**

Sec. 13. The immunity of the governmental agency shall not apply to actions to recover for bodily injury or property damage arising out of the performance of a proprietary function as defined in this section. Proprietary function shall mean any activity which is conducted primarily for the purpose of producing a pecuniary profit for the governmental agency, excluding, however, any activity normally supported by taxes or fees. No action shall be brought against the governmental agency for injury or property damage arising out of the operation of proprietary function, except for injury or loss suffered on or after July 1, 1965.

**History:** 1964, Act 170, Eff. July 1, 1965;—Am. 1986, Act 175, Imd. Eff. July 7, 1986.

**Constitutionality:** Section 3 of Act 175 of 1986 provides:

“(1) Sections 1, 7, and 13 of Act No. 170 of the Public Acts of 1964, as amended by this amendatory act, being sections 691.1401, 691.1407, and 691.1413 of the Michigan Compiled Laws, shall not apply to causes of action which arise before July 1, 1986.

“(2) Section 6a of Act No. 170 of the Public Acts of 1964, as added by this amendatory act, shall apply to cases filed on or after July 1, 1986.”

In Hyde v University of Michigan Regents, 426 Mich 223 (1986), the Supreme Court stated that “1986 PA 175 was enacted, effective July 1, 1986.” Act 175 was approved by the Governor July 6, 1986, and filed with Secretary of State July 7, 1986.

**Popular name:** Governmental Immunity Act

#### **691.1414 Repeal.**

Sec. 14. Chapter 22 of Act No. 283 of the Public Acts of 1909, as amended, being sections 242.1 to 242.8 of the Compiled Laws of 1948; section 2904 of Act No. 236 of the Public Acts of 1961, being section 600.2904 of the Compiled Laws of 1948; Act No. 59 of the Public Acts of 1951, as amended, being sections 124.101 to 124.103 of the Compiled Laws of 1948, are repealed.

**History:** 1964, Act 170, Eff. July 1, 1965.

**Popular name:** Governmental Immunity Act

#### **691.1415 Effective date of act.**

Sec. 15. This act shall take effect July 1, 1965.

**History:** 1964, Act 170, Eff. July 1, 1965.

**Popular name:** Governmental Immunity Act

#### **691.1416 Definitions.**

Sec. 16. As used in this section and sections 17 to 19:

(a) "Affected property" means real property affected by a sewage disposal system event.

(b) "Appropriate governmental agency" means a governmental agency that, at the time of a sewage disposal system event, owned or operated, or directly or indirectly discharged into, the portion of the sewage disposal system that allegedly caused damage or physical injury.

(c) "Claimant" means a property owner that believes that a sewage disposal system event caused damage to the owner's property, a physically injured individual who believes that a sewage disposal system event caused the physical injury, or a person making a claim on behalf of a property owner or physically injured individual. Claimant includes a person that is subrogated to a claim of a property owner or physically injured individual described in this subdivision.

(d) "Contacting agency" means any of the following within a governmental agency:

(i) The clerk of the governmental agency.

(ii) If the governmental agency has no clerk, an individual who may lawfully be served with civil process directed against the governmental agency.

(iii) Any other individual, agency, authority, department, district, or office authorized by the governmental agency to receive notice under section 19, including, but not limited to, an agency, authority, department, district, or office responsible for the operation of the sewage disposal system, such as a sewer department, water department, or department of public works.

(e) "Defect" means a construction, design, maintenance, operation, or repair defect.

(f) "Noneconomic damages" includes, but is not limited to, pain, suffering, inconvenience, physical impairment, disfigurement, mental anguish, emotional distress, loss of society and companionship, loss of consortium, injury to reputation, humiliation, and other nonpecuniary damages.

(g) "Person" means an individual, partnership, association, corporation, other legal entity, or a political subdivision.

(h) "Serious impairment of body function" means that term as defined in section 3135 of the insurance code of 1956, 1956 PA 218, MCL 500.3135.

(i) "Service lead" means an instrumentality that connects an affected property, including a structure, fixture, or improvement on the property, to the sewage disposal system and that is neither owned nor maintained by a governmental agency.

(j) "Sewage disposal system" means all interceptor sewers, storm sewers, sanitary sewers, combined sanitary and storm sewers, sewage treatment plants, and all other plants, works, instrumentalities, and properties used or useful in connection with the collection, treatment, and disposal of sewage and industrial wastes, and includes a storm water drain system under the jurisdiction and control of a governmental agency.

(k) "Sewage disposal system event" or "event" means the overflow or backup of a sewage disposal system onto real property. An overflow or backup is not a sewage disposal system event if any of the following was a substantial proximate cause of the overflow or backup:

(i) An obstruction in a service lead that was not caused by a governmental agency.

(ii) A connection to the sewage disposal system on the affected property, including, but not limited to, a sump system, building drain, surface drain, gutter, or downspout.

(iii) An act of war, whether the war is declared or undeclared, or an act of terrorism.

(l) "Substantial proximate cause" means a proximate cause that was 50% or more of the cause of the event and the property damage or physical injury.

**History:** Add. 2001, Act 222, Imd. Eff. Jan. 2, 2002.

**Popular name:** Governmental Immunity Act

#### **691.1417 Damages or physical injuries caused by sewage disposal system event; compliance of claimant and governmental agency with relief provisions.**

Sec. 17. (1) To afford property owners, individuals, and governmental agencies greater efficiency, certainty, and consistency in the provision of relief for damages or physical injuries caused by a sewage disposal system event, a claimant and a governmental agency subject to a claim shall comply with this section

and the procedures in sections 18 and 19.

(2) A governmental agency is immune from tort liability for the overflow or backup of a sewage disposal system unless the overflow or backup is a sewage disposal system event and the governmental agency is an appropriate governmental agency. Sections 16 to 19 abrogate common law exceptions, if any, to immunity for the overflow or backup of a sewage disposal system and provide the sole remedy for obtaining any form of relief for damages or physical injuries caused by a sewage disposal system event regardless of the legal theory.

(3) If a claimant, including a claimant seeking noneconomic damages, believes that an event caused property damage or physical injury, the claimant may seek compensation for the property damage or physical injury from a governmental agency if the claimant shows that all of the following existed at the time of the event:

(a) The governmental agency was an appropriate governmental agency.

(b) The sewage disposal system had a defect.

(c) The governmental agency knew, or in the exercise of reasonable diligence should have known, about the defect.

(d) The governmental agency, having the legal authority to do so, failed to take reasonable steps in a reasonable amount of time to repair, correct, or remedy the defect.

(e) The defect was a substantial proximate cause of the event and the property damage or physical injury.

(4) In addition to the requirements of subsection (3), to obtain compensation for property damage or physical injury from a governmental agency, a claimant must show both of the following:

(a) If any of the damaged property is personal property, reasonable proof of ownership and the value of the damaged personal property. Reasonable proof may include testimony or records documenting the ownership, purchase price, or value of the property, or photographic or similar evidence showing the value of the property.

(b) The claimant complied with section 19.

**History:** Add. 2001, Act 222, Imd. Eff. Jan. 2, 2002.

**Popular name:** Governmental Immunity Act

#### **691.1418 Economic damages; grounds for noneconomic damages; available defenses.**

Sec. 18. (1) Except as provided in subsection (2), economic damages are the only compensation for a claim under section 17. Except as provided in subsection (2), a court shall not award and a governmental agency shall not pay noneconomic damages as compensation for an event.

(2) A governmental agency remains subject to tort liability for noneconomic damages caused by an event only if the claimant or the individual on whose behalf the claimant is making the claim has suffered death, serious impairment of body function, or permanent serious disfigurement.

(3) In an action for noneconomic damages under section 17, the issues of whether a claimant or the individual on whose behalf the claimant is making the claim has suffered serious impairment of body function or permanent serious disfigurement are questions of law for the court if the court finds either of the following:

(a) There is no factual dispute concerning the nature and extent of the claimant's or the individual's injuries.

(b) There is a factual dispute concerning the nature and extent of the claimant's or the individual's injuries, but the dispute is not material to determining whether the claimant or the individual has suffered a serious impairment of body function or permanent serious disfigurement.

(4) Unless this act provides otherwise, a party to a civil action brought under section 17 has all applicable common law and statutory defenses ordinarily available in civil actions, and is entitled to all rights and procedures available under the Michigan court rules.

**History:** Add. 2001, Act 222, Imd. Eff. Jan. 2, 2002.

**Popular name:** Governmental Immunity Act

\*\*\*\*\* 691.1419 THIS SECTION DOES NOT APPLY TO NONECONOMIC DAMAGES MADE UNDER SECTION 17: See subsection (7) \*\*\*\*\*

#### **691.1419 Notice of claim; requirements.**

Sec. 19. (1) Except as provided in subsections (3) and (7), a claimant is not entitled to compensation under section 17 unless the claimant notifies the governmental agency of a claim of damage or physical injury, in writing, within 45 days after the date the damage or physical injury was discovered, or in the exercise of reasonable diligence should have been discovered. The written notice under this subsection shall contain the content required by subsection (2)(c) and shall be sent to the individual within the governmental agency



designated in subsection (2)(b). To facilitate compliance with this section, a governmental agency owning or operating a sewage disposal system shall make available public information about the provision of notice under this section.

(2) If a person who owns or occupies affected property notifies a contacting agency orally or in writing of an event before providing a notice of a claim that complies with subsection (1), the contacting agency shall provide the person with all of the following information in writing:

(a) A sufficiently detailed explanation of the notice requirements of subsection (1) to allow a claimant to comply with the requirements.

(b) The name and address of the individual within the governmental agency to whom a claimant must send written notice under subsection (1).

(c) The required content of the written notice under subsection (1), which is limited to the claimant's name, address, and telephone number, the address of the affected property, the date of discovery of any property damages or physical injuries, and a brief description of the claim.

(3) A claimant's failure to comply with the notice requirements of subsection (1) does not bar the claimant from bringing a civil action under section 17 against a governmental agency notified under subsection (2) if the claimant can show both of the following:

(a) The claimant notified the contacting agency under subsection (2) during the period for giving notice under subsection (1).

(b) The claimant's failure to comply with the notice requirements of subsection (1) resulted from the contacting agency's failure to comply with subsection (2).

(4) If a governmental agency that is notified of a claim under subsection (1) believes that a different or additional governmental agency may be responsible for the claimed property damages or physical injuries, the governmental agency shall notify the contacting agency of each additional or different governmental agency of that fact, in writing, within 15 business days after the date the governmental agency receives the claimant's notice under subsection (1). This subsection is intended to allow a different or additional governmental agency to inspect a claimant's property or investigate a claimant's physical injury before litigation. Failure by a governmental agency to provide notice under this subsection to a different or additional governmental agency does not bar a civil action by the governmental agency against the different or additional governmental agency.

(5) If a governmental agency receives a notice from a claimant or a different or additional governmental agency that complies with this section, the governmental agency receiving notice may inspect the damaged property or investigate the physical injury. A claimant or the owner or occupant of affected property shall not unreasonably refuse to allow a governmental agency subject to a claim to inspect damaged property or investigate a physical injury. This subsection does not prohibit a governmental agency from subsequently inspecting damaged property or investigating a physical injury during a civil action brought under section 17.

(6) If a governmental agency notified of a claim under subsection (1) and a claimant do not reach an agreement on the amount of compensation for the property damage or physical injury within 45 days after the receipt of notice under this section, the claimant may institute a civil action. A civil action shall not be commenced under section 17 until after that 45 days.

(7) This section does not apply to claims for noneconomic damages made under section 17.

**History:** Add. 2001, Act 222, Imd. Eff. Jan. 2, 2002.

**Popular name:** Governmental Immunity Act

**LIABILITY OF CERTAIN PERSONS FOR EMERGENCY CARE**  
**Act 17 of 1963**

AN ACT to relieve certain persons from civil liability when rendering emergency care, when rendering care to persons involved in competitive sports under certain circumstances, or when participating in a mass immunization program approved by the department of public health.

**History:** 1963, Act 17, Eff. Sept. 6, 1963;—Am. 1964, Act 60, Imd. Eff. May 12, 1964;—Am. 1975, Act 123, Imd. Eff. July 1, 1975;—Am. 1976, Act 202, Imd. Eff. July 23, 1976;—Am. 1987, Act 30, Imd. Eff. May 26, 1987.

*The People of the State of Michigan enact:*

**691.1501 Physicians, physician's assistant, or nurses rendering emergency care or determining fitness to engage in competitive sports; liability for acts or omissions; definitions.**

Sec. 1. (1) A physician, physician's assistant, registered professional nurse, or licensed practical nurse who in good faith renders emergency care without compensation at the scene of an emergency, if a physician-patient relationship, physician's assistant-patient relationship, registered professional nurse-patient relationship, or licensed practical nurse-patient relationship did not exist before the emergency, is not liable for civil damages as a result of acts or omissions by the physician, physician's assistant, registered professional nurse, or licensed practical nurse in rendering the emergency care, except acts or omissions amounting to gross negligence or willful and wanton misconduct.

(2) A physician or physician's assistant who in good faith performs a physical examination without compensation upon an individual to determine the individual's fitness to engage in competitive sports and who has obtained a form described in this subsection signed by the individual or, if the individual is a minor, by the parent or guardian of the minor, is not liable for civil damages as a result of acts or omissions by the physician or physician's assistant in performing the physical examination, except acts or omissions amounting to gross negligence or willful and wanton misconduct or which are outside the scope of the license held by the physician or physician's assistant. The form required by this subsection shall contain a statement indicating that the person signing the form knows that the physician or physician's assistant is not necessarily performing a complete physical examination and is not liable under this section for civil damages as a result of acts or omissions by the physician or physician's assistant in performing the physical examination, except acts or omissions amounting to gross negligence or willful and wanton misconduct or which are outside the scope of the license held by the physician or physician's assistant.

(3) A physician, physician's assistant, registered professional nurse, or licensed practical nurse who in good faith renders emergency care without compensation to an individual requiring emergency care as a result of having engaged in competitive sports is not liable for civil damages as a result of acts or omissions by the physician, physician's assistant, registered professional nurse, or licensed practical nurse in rendering the emergency care, except acts or omissions amounting to gross negligence or willful and wanton misconduct and except acts or omissions that are outside the scope of the license held by the physician, physician's assistant, registered professional nurse, or licensed practical nurse. This subsection applies to the rendering of emergency care to a minor even if the physician, physician's assistant, registered professional nurse, or licensed practical nurse does not obtain the consent of the parent or guardian of the minor before the emergency care is rendered.

(4) As used in this act:

(a) "Competitive sports" means sports conducted as part of a program sponsored by a public or private school that provides instruction in grades kindergarten through 12 or a charitable or volunteer organization. Competitive sports do not include sports conducted as part of a program sponsored by a public or private college or university.

(b) "Licensed practical nurse" means an individual licensed to engage in the practice of nursing as a licensed practical nurse under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(c) "Physician" means an individual licensed to engage in the practice of medicine or the practice of osteopathic medicine and surgery under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(d) "Physician's assistant" means an individual licensed to engage in the practice of medicine or the practice of osteopathic medicine and surgery performed under the supervision of a physician as provided in article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(e) "Registered professional nurse" means an individual licensed to engage in the practice of nursing under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

**History:** Add. 1975, Act 123, Imd. Eff. July 1, 1975;—Am. 2002, Act 543, Imd. Eff. July 26, 2002.

**Compiler's note:** Enacting section 1 of Act 543 of 2002 provides:

"Enacting section 1. This amendatory act applies to a cause of action arising on or after the effective date of this amendatory act."

#### **691.1502 Emergency care; exemption of certain persons from civil liability; exception; staffing hospital emergency facilities.**

Sec. 2. (1) If an individual's actual hospital duty does not require a response to the emergency situation, a physician, physician's assistant, dentist, podiatrist, intern, resident, registered nurse, licensed practical nurse, registered physical therapist, clinical laboratory technologist, inhalation therapist, certified registered nurse anesthetist, x-ray technician, or paramedic, who in good faith responds to a life threatening emergency or responds to a request for emergency assistance in a life threatening emergency within a hospital or other licensed medical care facility, is not liable for civil damages as a result of an act or omission in the rendering of emergency care, except an act or omission amounting to gross negligence or willful and wanton misconduct.

(2) The exemption from liability under subsection (1) does not apply to a physician if a physician-patient relationship, to a physician's assistant if a physician's assistant-patient relationship, or to a licensed nurse if a nurse-patient relationship existed before the emergency.

(3) The exemption from liability under subsection (1) does not apply to a physician's assistant unless the response by the physician's assistant is within the scope of the license held by the physician's assistant or within the expertise or training of the physician's assistant.

(4) This act does not diminish a hospital's responsibility to reasonably and adequately staff hospital emergency facilities if the hospital maintains or holds out to the general public that it maintains emergency room facilities.

**History:** Add. 1975, Act 123, Imd. Eff. July 1, 1975;—Am. 2002, Act 543, Imd. Eff. July 26, 2002.

**Compiler's note:** Enacting section 1 of Act 543 of 2002 provides:

"Enacting section 1. This amendatory act applies to a cause of action arising on or after the effective date of this amendatory act."

#### **691.1503 Repealed. 1978, Act 368, Eff. Sept. 30, 1978.**

**Compiler's note:** The repealed section pertained to liability of health personnel and drug manufacturers participating in mass immunization programs.

#### **691.1504 Rendering of cardiopulmonary resuscitation; applicability of subsection (1) to civil actions; use of automated external defibrillator; applicability of subsections (3) and (4).**

Sec. 4. (1) Subject to subsection (2), an individual who having no duty to do so in good faith voluntarily renders cardiopulmonary resuscitation to another individual is not liable in a civil action for damages resulting from an act or omission in rendering the cardiopulmonary resuscitation, except an act or omission that constitutes gross negligence or willful and wanton misconduct.

(2) Subsection (1) applies only to a civil action that is filed or pending on or after May 1, 1986.

(3) Subject to subsection (5), an individual who having no duty to do so in good faith voluntarily renders emergency services to another individual using an automated external defibrillator is not liable in a civil action for damages resulting from an act or omission in rendering the emergency services using the automated external defibrillator, except an act or omission that constitutes gross negligence or willful and wanton misconduct.

(4) Subject to subsection (5), the following persons are not liable in a civil action for damages resulting from an act or omission of an individual rendering emergency services using an automated external defibrillator as described in subsection (3), except if the person's actions constitute gross negligence or willful and wanton misconduct:

(a) A physician who provides medical authorization for use of an automated external defibrillator.

(b) An individual who instructs others in the use of an automated external defibrillator.

(c) An individual or entity that owns, occupies, or manages the premises where an automated external defibrillator is located or used.

(5) Subsections (3) and (4) apply only to a civil action that is filed or pending on or after the effective date of the amendatory act that added this subsection.

**History:** Add. 1986, Act 21, Imd. Eff. Mar. 10, 1986;—Am. 1999, Act 173, Imd. Eff. Nov. 16, 1999.

#### **691.1505 Liability of block parent volunteer; definitions.**

Sec. 5. (1) A block parent volunteer who in good faith and while acting as a block parent volunteer renders assistance to a minor during an emergency shall not be liable for civil damages resulting from an act or omission in the rendering of that assistance, except an act or omission amounting to gross negligence or wilful and wanton misconduct.

(2) As used in this section:

(a) "Block parent volunteer" means a person who is a member of a nonprofit volunteer organization which has as its primary function assisting minors in getting safely to and from school.

(b) "Minor" means a person who is less than 18 years of age.

**History:** Add. 1985, Act 150, Imd. Eff. Nov. 12, 1985.

**691.1507 Member of national ski patrol system rendering emergency care; liability for acts or omissions.**

Sec. 7. A person who is a registered member of the national ski patrol system and who, in good faith and while on patrol as a member of the national ski patrol system, renders emergency care at the scene of an emergency shall not be liable for civil damages as a result of acts or omissions by the person in rendering the emergency care, except acts or omissions amounting to gross negligence or willful and wanton misconduct.

**History:** Add. 1987, Act 30, Imd. Eff. May 26, 1987;—Am. 2006, Act 43, Imd. Eff. Mar. 2, 2006.

**BLOOD BANKING AND TRANSFUSION PROCEDURES**  
**Act 174 of 1967**

**691.1511, 691.1512 Repealed. 1978, Act 368, Eff. Sept. 30, 1978.**

**IMMUNITY OF RESTAURANT OWNERS AND EMPLOYEES**  
**Act 448 of 1978**

AN ACT to provide immunity from civil action to restaurants, owners of restaurants, and employees of restaurants who aid individuals choking on foods.

**History:** 1978, Act 448, Imd. Eff. Oct. 11, 1978.

*The People of the State of Michigan enact:*

**691.1521 “Restaurant” defined.**

Sec. 1. As used in this act, “restaurant” means a fixed or mobile establishment serving food to the public for consumption on the premises.

**History:** 1978, Act 448, Imd. Eff. Oct. 11, 1978.

**691.1522 Removal of food lodged in throat; liability of employee or owner of restaurant.**

Sec. 2. A restaurant or an employee or owner of a restaurant shall not be liable for civil damages if an employee or owner of a restaurant in good faith attempts to remove, removes, or assists in the removal or attempted removal of food which is lodged in an individual's throat, unless the employee or owner was grossly negligent in his or her actions.

**History:** 1978, Act 448, Imd. Eff. Oct. 11, 1978.

**IMMUNITY OF FOOD DONORS FROM CIVIL LIABILITY**  
**Act 339 of 1982**

**691.1531-691.1536 Repealed. 1989, Act 207, Imd. Eff. Nov. 7, 1989;—1989, Act 207, Eff. July 1, 1993;—1993, Act 77, Imd. Eff. July 9, 1993;—1993, Act 136, Imd. Eff. Aug. 2, 1993.**

## SPORT SHOOTING RANGES Act 269 of 1989

AN ACT to provide civil immunity to persons who operate or use certain sport shooting ranges; and to regulate the application of state and local laws, rules, regulations, and ordinances regarding sport shooting ranges.

**History:** 1989, Act 269, Imd. Eff. Dec. 26, 1989.

*The People of the State of Michigan enact:*

### **691.1541 Definitions.**

Sec. 1. As used in this act:

(a) "Generally accepted operation practices" means those practices adopted by the commission of natural resources that are established by a nationally recognized nonprofit membership organization that provides voluntary firearm safety programs that include training individuals in the safe handling and use of firearms, which practices are developed with consideration of all information reasonably available regarding the operation of shooting ranges. The generally accepted operation practices shall be reviewed at least every 5 years by the commission of natural resources and revised as the commission considers necessary. The commission shall adopt generally accepted operation practices within 90 days of the effective date of section 2a.

(b) "Local unit of government" means a county, city, township, or village.

(c) "Person" means an individual, proprietorship, partnership, corporation, club, governmental entity, or other legal entity.

(d) "Sport shooting range" or "range" means an area designed and operated for the use of archery, rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, or any other similar sport shooting.

**History:** 1989, Act 269, Imd. Eff. Dec. 26, 1989;—Am. 1994, Act 250, Imd. Eff. July 5, 1994.

### **691.1542 Sport shooting ranges; civil liability or criminal prosecution; state rules or regulations.**

Sec. 2. (1) Notwithstanding any other provision of law, and in addition to other protections provided in this act, a person who owns or operates or uses a sport shooting range that conforms to generally accepted operation practices in this state is not subject to civil liability or criminal prosecution in any matter relating to noise or noise pollution resulting from the operation or use of the range if the range is in compliance with any noise control laws or ordinances that applied to the range and its operation at the time of construction or initial operation of the range.

(2) In addition to other protections provided in this act, a person who owns, operates, or uses a sport shooting range that conforms to generally accepted operation practices is not subject to an action for nuisance, and a court of the state shall not enjoin or restrain the use or operation of a range on the basis of noise or noise pollution, if the range is in compliance with any noise control laws or ordinances that applied to the range and its operation at the time of construction or initial operation of the range.

(3) Rules or regulations adopted by any state department or agency for limiting levels of noise in terms of decibel level which may occur in the outdoor atmosphere do not apply to a sport shooting range exempted from liability under this act. However, this subsection does not restrict the application of any provision of the generally accepted operation practices.

**History:** 1989, Act 269, Imd. Eff. Dec. 26, 1989;—Am. 1994, Act 250, Imd. Eff. July 5, 1994.

### **691.1542a Continuation of preexisting sport shooting ranges.**

Sec. 2a. (1) A sport shooting range that is operated and is not in violation of existing law at the time of the enactment of an ordinance shall be permitted to continue in operation even if the operation of the sport shooting range at a later date does not conform to the new ordinance or an amendment to an existing ordinance.

(2) A sport shooting range that is in existence as of the effective date of this section and operates in compliance with generally accepted operation practices, even if not in compliance with an ordinance of a local unit of government, shall be permitted to do all of the following within its preexisting geographic boundaries if in compliance with generally accepted operation practices:

(a) Repair, remodel, or reinforce any conforming or nonconforming building or structure as may be necessary in the interest of public safety or to secure the continued use of the building or structure.

(b) Reconstruct, repair, restore, or resume the use of a nonconforming building damaged by fire, collapse,

explosion, act of god, or act of war occurring after the effective date of this section. The reconstruction, repair, or restoration shall be completed within 1 year following the date of the damage or settlement of any property damage claim. If reconstruction, repair, or restoration is not completed within 1 year, continuation of the nonconforming use may be terminated in the discretion of the local unit of government.

(c) Do anything authorized under generally accepted operation practices, including, but not limited to:

(i) Expand or increase its membership or opportunities for public participation.

(ii) Expand or increase events and activities.

**History:** Add. 1994, Act 250, Imd. Eff. July 5, 1994.

#### **691.1543 Local regulation.**

Sec. 3. Except as otherwise provided in this act, this act does not prohibit a local unit of government from regulating the location, use, operation, safety, and construction of a sport shooting range.

**History:** 1989, Act 269, Imd. Eff. Dec. 26, 1989;—Am. 1994, Act 250, Imd. Eff. July 5, 1994.

#### **691.1544 Acceptance of risk.**

Sec. 4. Each person who participates in sport shooting at a sport shooting range that conforms to generally accepted operation practices accepts the risks associated with the sport to the extent the risks are obvious and inherent. Those risks include, but are not limited to, injuries that may result from noise, discharge of a projectile or shot, malfunction of sport shooting equipment not owned by the shooting range, natural variations in terrain, surface or subsurface snow or ice conditions, bare spots, rocks, trees, and other forms of natural growth or debris.

**History:** Add. 1994, Act 251, Imd. Eff. July 5, 1994.



## **COMMUNITY DISPUTE RESOLUTION ACT**

### **Act 260 of 1988**

AN ACT to create the community dispute resolution program; to create the community dispute resolution fund; to establish criteria for funding and participation in the program; to provide for the administration of the program; to authorize pilot projects; to require the reporting of certain statistical data; and to repeal certain parts of this act on specific dates.

**History:** 1988, Act 260, Eff. Nov. 13, 1988;—Am. 1993, Act 286, Imd. Eff. Dec. 28, 1993.

*The People of the State of Michigan enact:*

#### **691.1551 Short title.**

Sec. 1. This act shall be known and may be cited as the “community dispute resolution act”.

**History:** 1988, Act 260, Eff. Nov. 13, 1988.

#### **691.1552 Definitions.**

Sec. 2. As used in this act:

(a) “Administrative expenses” means expenses incurred by the state court administrator in implementing this act.

(b) “Available grant funds” means that portion of the community dispute resolution fund available for awards to grant recipients, after administrative expenses have been met.

(c) “Center” means a community-based dispute resolution center.

(d) “Fund” means the community dispute resolution fund.

(e) “Grant recipient” means a nonprofit or governmental organization that receives funds to operate a center pursuant to this act.

(f) “Mediator” means an impartial, neutral person who assists parties in voluntarily reaching their own settlement of issues in a dispute and who has no authoritative decision-making power.

(g) “Program” means the community dispute resolution program created by this act.

**History:** 1988, Act 260, Eff. Nov. 13, 1988;—Am. 1993, Act 286, Imd. Eff. Dec. 28, 1993.

#### **691.1553 Community dispute resolution program; creation; purpose.**

Sec. 3. The community dispute resolution program is created to provide conciliation, mediation, or other forms and techniques of voluntary dispute resolution to persons as an alternative to the judicial process.

**History:** 1988, Act 260, Eff. Nov. 13, 1988;—Am. 1993, Act 286, Imd. Eff. Dec. 28, 1993.

#### **691.1554 Community dispute resolution fund; creation; purpose; administration.**

Sec. 4. The program shall be funded by the community dispute resolution fund which is created in the state treasury and shall be administered by the state court administrator.

**History:** 1988, Act 260, Eff. Nov. 13, 1988.

#### **691.1555 Revenues, funds, and interest credited to fund.**

Sec. 5. (1) The department of treasury shall credit to the fund the revenues received pursuant to sections 2528, 2529, 5756, 8371, and 8420 of the revised judiciary act of 1961, Act No. 236 of the Public Acts of 1961, being sections 600.2528, 600.2529, 600.5756, 600.8371, and 600.8420 of the Michigan Compiled Laws.

(2) The department of treasury shall credit to the fund any funds appropriated by the legislature and any federal or private funds received by the state for the purpose of implementing this act. Money in the fund at the end of the fiscal year shall remain in the fund, and shall not revert to the general fund.

(3) Interest generated by revenues in the community dispute resolution fund shall be credited to the community dispute resolution fund by the department of treasury and shall be used exclusively for purposes of this act.

**History:** 1988, Act 260, Eff. Nov. 13, 1988;—Am. 1993, Act 286, Imd. Eff. Dec. 28, 1993.

#### **691.1556 Participation in dispute resolution process.**

Sec. 6. (1) Participation in the dispute resolution process shall be voluntary and the form or technique utilized shall be by mutual agreement of the parties.

(2) Subject to subsection (1), a court may refer the parties to a civil action to a center funded under this act. The court shall not require that the parties to the civil action reach a settlement of the civil action through any



dispute resolution process utilized at the center.

**History:** 1988, Act 260, Eff. Nov. 13, 1988;—Am. 1993, Act 286, Imd. Eff. Dec. 28, 1993.

#### **691.1556a Agreement; enforcement.**

Sec. 6a. If the parties involved in a dispute resolution process reach a settlement and execute a written agreement, the agreement is enforceable in the same manner as any other written contract.

**History:** Add. 1993, Act 286, Imd. Eff. Dec. 28, 1993.

#### **691.1556b Repealed. 1993, Act 286, Eff. Jan. 1, 1996.**

**Compiler's note:** The repealed section pertained to pilot projects.

#### **691.1557 Confidentiality.**

Sec. 7. (1) The work product and case files of a mediator or center and communications relating to the subject matter of the dispute made during the dispute resolution process by a party, mediator, or other person are confidential and not subject to disclosure in a judicial or administrative proceeding except for either of the following:

(a) Work product, case files, or communications for which all parties to the dispute resolution process agree in writing to waive confidentiality.

(b) Work product, case files, or communications which are used in a subsequent action between the mediator and a party to the dispute resolution process for damages arising out of the dispute resolution process.

(2) Subsection (1) does not apply to statements, memoranda, materials, and other tangible evidence, otherwise subject to discovery, that were not prepared specifically for use in the dispute resolution process.

**History:** 1988, Act 260, Eff. Nov. 13, 1988;—Am. 1993, Act 286, Imd. Eff. Dec. 28, 1993.

#### **691.1557a Civil liability.**

Sec. 7a. A mediator of a community dispute resolution center shall not be held liable for civil damages for any act or omission in the scope of his or her employment or function as a mediator, unless he or she acted in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of the rights, safety, or property of another.

**History:** Add. 1993, Act 286, Imd. Eff. Dec. 28, 1993.

#### **691.1558 Administration of program.**

Sec. 8. This program shall be administered through community dispute resolution centers operated by grant recipients pursuant to a grant contract awarded by the state court administrator.

**History:** 1988, Act 260, Eff. Nov. 13, 1988.

#### **691.1559 Eligibility of grant recipient for funding.**

Sec. 9. To be eligible for funding, a grant recipient shall do all of the following:

(a) Comply with the provisions of this act, and any requirements or guidelines established by the state court administrator to effectuate the purposes of this act.

(b) Provide neutral mediators who have received not less than 40 hours of training in conflict resolution techniques and principles of the legal system in a course of study approved by the state court administrator or a program of internship as may be required by the state court administrator.

(c) Provide dispute resolution services without cost to indigents.

(d) Reject any dispute which involves alleged acts which are or could be the subject of a violent felony or drug-related felony criminal prosecution.

(e) When appropriate, refer participants to other agencies or organizations for assistance.

(f) Provide for community participation and respond to local community needs. In determining whether this requirement has been satisfied, the state court administrator shall consider the extent to which the applicant has the following:

(i) Active board members and mediators drawn from the community and client constituencies.

(ii) Programs and services that target local dispute resolution needs.

(iii) Local financial and in-kind support.

(iv) A diversified base of referral sources.

**History:** 1988, Act 260, Eff. Nov. 13, 1988;—Am. 1993, Act 286, Imd. Eff. Dec. 28, 1993.

#### **691.1560 Selection of grant recipients; contents of grant applications submitted for funding; allocations; matching amount; "civil filing fee fund" defined.**

Sec. 10. (1) Grant recipients shall be selected from applications submitted to the state court administrator. The grant applications submitted for funding shall include all of the following:

(a) The budget for the proposed center including the proposed compensation and qualifications of the employees.

(b) A description of the proposed geographical area of service and an estimate of the number of participants to be served.

(c) A description of current dispute resolution services, if any, available within the proposed geographical area.

(d) A narrative of the applicant's proposed program that includes the support of civic groups, social services agencies, local courts, and criminal justice agencies to accept and make referrals; the present availability of resources; and the applicant's administrative capacity.

(e) A description of the fee structure, if any, that will be applied to participants seeking dispute resolution.

(f) Such additional information as is determined to be needed by the state court administrator.

(2) If 1 or more applicants meet the eligibility requirements of section 9 and guidelines established under section 9, the state court administrator shall award a grant or grants from money distributed to the fund from the civil filing fee fund. Grants shall be allocated as follows:

(a) 65% of the money received from the civil filing fee fund shall be made available for disbursement on the basis of the annual civil court filings reported by courts. An eligible applicant shall receive a pro rata share of the available grant funds on the basis of the annual civil court filings reported by courts located in the counties serviced by the applicant.

(b) 35% of the money received from the civil filing fee fund and any money in the fund derived from other sources shall be made available for disbursement on the basis of performance measures and threshold funding levels established by the state court administrative office.

(3) Nothing in subsection (2) requires a grant award that exceeds the proposed center's approved budget.

(4) Each grant recipient shall provide a matching amount equal to at least 35% of the awarded grant amount.

(5) As used in this section, "civil filing fee fund" means that fund as created in section 171 of the revised judiciary act of 1961, 1961 PA 236, MCL 600.171.

**History:** 1988, Act 260, Eff. Nov. 13, 1988;—Am. 1993, Act 286, Imd. Eff. Dec. 28, 1993;—Am. 2003, Act 79, Eff. Oct. 1, 2003.

#### **691.1561 Fiscal affairs of grant recipient; inspection, examination, and audit.**

Sec. 11. The state court administrator or other authorized state official shall have the power to inspect, examine, and audit the fiscal affairs of any grant recipient.

**History:** 1988, Act 260, Eff. Nov. 13, 1988.

#### **691.1562 Providing statistical data annually to state court administrator; annual report.**

Sec. 12. Each grant recipient shall annually provide to the state court administrator statistical data on its operating budget, the number of referrals, categories or types of cases referred, number of parties serviced, number of disputes resolved, nature of resolution, amount and type of awards, rate of compliance, returnees to the center, duration and estimated costs of hearing, and such other information the state court administrator may require. The state court administrator shall report annually to the governor and legislature regarding the operation and success of the centers funded pursuant to this act.

**History:** 1988, Act 260, Eff. Nov. 13, 1988.

#### **691.1563 Effective date.**

Sec. 13. This act shall take effect upon the expiration of 120 days after the date of its enactment.

**History:** 1988, Act 260, Eff. Nov. 13, 1988.

#### **691.1564 Conditional effective date.**

Sec. 14. This act shall not take effect unless Senate Bill No. 816 of the 84th Legislature is enacted into law.

**History:** 1988, Act 260, Eff. Nov. 13, 1988.

**Compiler's note:** Senate Bill No. 816, referred to in this section, was filed with the Secretary of State August 17, 1988, and became P.A. 1988, No. 310, Eff. Jan. 1, 1989.

## **IMMUNITY OF FOOD DONORS FROM CIVIL LIABILITY**

### **Act 136 of 1993**

AN ACT to provide immunity from civil liability to persons who donate food for use or distribution by certain nonprofit or charitable corporations, organizations, or associations; and to repeal certain acts and parts of acts.

**History:** 1993, Act 136, Imd. Eff. Aug. 2, 1993.

*The People of the State of Michigan enact:*

#### **691.1571 Definitions.**

Sec. 1. As used in this act:

(a) "Canned food" means food that is commercially processed in hermetically sealed containers by a commercial processor.

(b) "Charitable organization" means a benevolent, educational, philanthropic, humane, patriotic, religious, or eleemosynary organization of persons organized for any lawful purpose or purposes not involving pecuniary profit or gain for its officers or members.

(c) "Commercial processor" means a person licensed pursuant to the food processing act of 1977, Act No. 328 of the Public Acts of 1978, being sections 289.801 to 289.810 of the Michigan Compiled Laws, or a person licensed pursuant to a law of another jurisdiction substantially corresponding to Act No. 328 of the Public Acts of 1978.

(d) "Commercially processed" means processed in a manner adequate to protect the public health and in accordance with current good manufacturing practices applicable to facilities, methods, practices, and controls used by a commercial processor in the manufacture, processing, or packing of low-acid foods in hermetically sealed containers.

(e) "Farm product" means an agricultural, dairy, or horticultural product or a product designed or intended for human consumption or prepared principally from agricultural, dairy, or horticultural produce.

(f) "Food" means articles used for food or drink for human consumption.

(g) "Food producer" includes, but is not limited to, restaurants, bakeries, cafeterias, caterers, and delicatessens.

(h) "Gleaner" means a person that harvests a donated agricultural crop for free distribution or nominal-cost distribution.

(i) "Hermetically sealed container" means a container that is designed and intended to prevent the entry of microorganisms and to maintain the commercial sterility of its content after processing.

(j) "Nonprofit corporation" means that term as defined in section 108 of the nonprofit corporation act, Act No. 162 of the Public Acts of 1982, being section 450.2108 of the Michigan Compiled Laws.

(k) "Person" means an individual, organization, group, association, partnership, corporation, trust, or any combination of these, including persons licensed pursuant to part 129 of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.12901 to 333.12922 of the Michigan Compiled Laws, or licensed pursuant to the food processing act of 1977, Act No. 328 of the Public Acts of 1978, being sections 289.801 to 289.810 of the Michigan Compiled Laws.

(l) "Potentially hazardous food" means either or both of the following:

(i) A "potentially hazardous food or beverage" as that term is defined in section 12901(1)(c)(xi) of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.12901 of the Michigan Compiled Laws.

(ii) A "potentially hazardous food and drink" as that term is defined in R 285.553.23 of the Michigan Administrative Code.

(m) "Prepared food" means food that has been sliced, assembled, formed, mixed, cooked, or subjected to other procedures to make it ready for serving.

**History:** 1993, Act 136, Imd. Eff. Aug. 2, 1993.

#### **691.1572 Perishable or prepared food donations to nonprofit corporation or charitable organizations; civil liability; exceptions to immunity.**

Sec. 2. (1) Except as provided in subsection (2), on or after July 1, 1993 an individual, farmer, food producer, processor, distributor, wholesaler, retailer, gleaner, or other person who in good faith donates perishable canned or farm food items or prepared food to a nonprofit corporation or charitable organization for distribution to needy or poor persons is not liable in any civil action based on the theory of warranty, negligence, or strict liability in tort for damages incurred resulting from any illness or disease contracted by

the ultimate users or recipients of the food due to the nature, age, condition, or packaging of the food.

(2) The immunity provided in subsection (1) does not apply if 1 of the following is shown:

(a) That the illness or disease resulted from the willful, wanton, or reckless acts of the donor.

(b) That the illness or disease resulted from prepared food if both of the following apply:

(i) The prepared food was a potentially hazardous food at the time it was donated.

(ii) A law of this state or a rule promulgated by an agency or department of this state concerning the preparation, transportation, storage, or serving of the prepared food was violated at any time before the food was donated.

(c) That the illness or disease resulted from food in hermetically sealed containers that was not prepared by a commercial processor.

(d) That the donor had actual or constructive knowledge that the food was tainted, contaminated, or harmful to the health or well-being of the recipient of the donated food.

**History:** 1993, Act 136, Imd. Eff. Aug. 2, 1993.

#### **691.1573 Inspection of food by nonprofit or charitable organization; civil liability; exceptions to immunity.**

Sec. 3. (1) Except as provided in subsection (2), on or after July 1, 1993 a nonprofit corporation or charitable organization that in good faith receives food for free or nominal cost distribution and that reasonably inspects the food at the time of donation and finds the food apparently fit for human consumption is not liable in any civil action based on the theory of warranty, negligence, or strict liability in tort for damages incurred resulting from any illness or disease contracted by the ultimate users or recipients of the food due to the condition of the food.

(2) The immunity provided in subsection (1) does not apply if 1 of the following is shown:

(a) That the illness or disease resulted from the willful, wanton, or reckless acts of the nonprofit corporation or charitable organization.

(b) That the illness or disease resulted from prepared food if both of the following apply:

(i) The prepared food was a potentially hazardous food at the time it was donated.

(ii) A law of this state or a rule promulgated by an agency or department of this state concerning the preparation, transportation, storage, or serving of the prepared food was violated at any time before the ultimate user or recipient of the food actually received the food.

(c) That the illness or disease resulted from food in hermetically sealed containers that was not prepared by a commercial processor.

(d) That the corporation or organization had actual or constructive knowledge that the food was tainted, contaminated, or harmful to the health or well-being of the recipient of the donated food.

**History:** 1993, Act 136, Imd. Eff. Aug. 2, 1993.

#### **691.1574 Repeal of act.**

Sec. 4. Act No. 339 of the Public Acts of 1982 is repealed.

**History:** 1993, Act 136, Imd. Eff. Aug. 2, 1993.

## **DRUG DEALER LIABILITY ACT**

### **Act 27 of 1994**

AN ACT to provide actions for civil damages against persons who participate in illegally marketing controlled substances; and to prescribe parties, procedures, and damages regarding that action.

**History:** 1994, Act 27, Eff. Apr. 1, 1994.

*The People of the State of Michigan enact:*

#### **691.1601 Short title; purpose of act.**

Sec. 1. (1) This act shall be known and may be cited as the “drug dealer liability act”.

(2) The purpose of this act is to provide for actions for civil damages against persons who participate in illegal marketing of controlled substances for injuries caused by illegal use of controlled substances in order to do all of the following:

(a) Compensate persons injured as a result of illegal marketing of controlled substances.

(b) Assess the cost of illegal marketing of controlled substances against persons who profit from that market.

(c) Provide an incentive for individual abusers to identify persons from whom the abusers have acquired illegally marketed controlled substances and to seek payment for the abusers' own treatment.

**History:** 1994, Act 27, Eff. Apr. 1, 1994.

#### **691.1602 Meanings of words and phrases.**

Sec. 2. For the purposes of this act, the words and phrases defined in sections 3 and 4 have the meanings ascribed to them in those sections.

**History:** 1994, Act 27, Eff. Apr. 1, 1994.

#### **691.1603 Definitions; C to L.**

Sec. 3. (1) “Controlled substance” means that term as defined in section 7104 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.7104 of the Michigan Compiled Laws.

(2) “Individual abuser” means an individual who uses a controlled substance that is not obtained directly from, or pursuant to a valid prescription or order of, a practitioner who is acting in the course of the practitioner's professional practice, or which use is not otherwise authorized under article 7 of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.7101 to 333.7544 of the Michigan Compiled Laws.

(3) “Level 1 participation” means participating in illegal marketing of 650 or more grams of a mixture containing a specified controlled substance, or of 16 or more pounds or 100 or more plants of marihuana.

(4) “Level 2 participation” means participating in illegal marketing of 225 or more grams, but less than 650 grams, of a mixture containing a specified controlled substance, or of 8 or more pounds or 75 or more plants, but less than 16 pounds or 100 plants, of marihuana.

(5) “Level 3 participation” means participating in illegal marketing of 50 or more grams, but less than 225 grams, of a mixture containing a specified controlled substance, or of 4 or more pounds or 50 or more plants, but less than 8 pounds or 75 plants, of marihuana.

(6) “Level 4 participation” means participating in illegal marketing of less than 50 grams of a mixture containing a specified controlled substance, or of 1 or more pounds or 25 or more plants, but less than 4 pounds or 50 plants, of marihuana.

**History:** 1994, Act 27, Eff. Apr. 1, 1994.

#### **691.1604 Definitions; M to S.**

Sec. 4. (1) “Market area” means the area in which a person is presumed to have participated in illegal marketing of a market area controlled substance as described in section 9.

(2) “Market area controlled substance” means a specified controlled substance or marihuana.

(3) “Participate in illegal marketing” means doing any of the following in violation of state or federal law:

(a) Manufacturing or delivering, or attempting or conspiring to manufacture or deliver, a controlled substance.

(b) Possessing, or attempting or conspiring to possess, a controlled substance with the intent to manufacture or deliver a controlled substance.

(4) “Person” means an individual, governmental entity, sole proprietorship, corporation, limited liability company, firm, trust, partnership, or incorporated or unincorporated association, existing under or authorized

by the laws of this state, another state, or a foreign country.

(5) "Practitioner" means that term as defined in section 7109 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.7109 of the Michigan Compiled Laws.

(6) "Specified controlled substance" means a controlled substance described in section 7212(1)(b) or section 7214(a)(iv) or (c)(ii) of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.7212 and 333.7214 of the Michigan Compiled Laws.

**History:** 1994, Act 27, Eff. Apr. 1, 1994.

**691.1605 Action against participant in illegal marketing of controlled substances; person injured by individual abuser; presumption.**

Sec. 5. (1) A person injured by an individual abuser may bring an action under this act for damages against a person who participated in illegal marketing of the controlled substance actually used by the individual abuser.

(2) If a plaintiff in an action under this section proves that the defendant participated in illegal marketing of the controlled substance actually used by the individual abuser who injured the plaintiff, the defendant is presumed to have injured the plaintiff and to have acted willfully and wantonly.

**History:** 1994, Act 27, Eff. Apr. 1, 1994.

**691.1606 Action against participant in illegal marketing of controlled substance; recovery of damages by individual abuser; conditions.**

Sec. 6. (1) Subject to subsection (2), an individual abuser may bring an action under this act for damages against a person who participated in illegal marketing of the controlled substance actually used by the individual abuser.

(2) An individual abuser shall not recover damages under this section unless the individual abuser meets all of the following conditions:

(a) Not less than 6 months before filing the action, the individual personally discloses to law enforcement authorities all of the information the individual knows regarding his or her source of illegally marketed controlled substances.

(b) The individual has not used an illegally marketed controlled substance within the 6 months before filing the action.

(c) The individual does not use an illegally marketed controlled substance during the pendency of the action.

**History:** 1994, Act 27, Eff. Apr. 1, 1994.

**691.1607 Action against participant in illegal marketing of market area controlled substance; person injured by individual abuser; burden of proof; presumption.**

Sec. 7. (1) Other than an individual abuser, a person injured by an individual abuser may bring an action for damages against a person who participated in illegal marketing of the market area controlled substance used by the individual abuser. In an action brought under this section, participation in illegal marketing shall be proven by clear and convincing evidence.

(2) If the plaintiff in an action under this section proves a defendant's participation in illegal marketing of a market area controlled substance and the plaintiff is 1 of the following, the defendant is presumed to have injured the plaintiff and to have acted willfully and wantonly:

(a) A parent, legal guardian, child, spouse, or sibling of the individual abuser.

(b) A child whose mother was an individual abuser while the child was in utero.

(c) The individual abuser's employer.

(d) A medical facility, insurer, governmental entity, or other legal entity that financially supports a drug treatment or other assistance program for, or that otherwise expends money or provides unreimbursed service on behalf of, the individual abuser.

**History:** 1994, Act 27, Eff. Apr. 1, 1994.

**691.1608 Proof of participation in illegal marketing of market area controlled substance; "market area" explained.**

Sec. 8. (1) A plaintiff under section 7 may prove that a defendant participated in illegal marketing of the market area controlled substance used by the individual abuser who injured the plaintiff by proving both of the following:

(a) The defendant was participating in the illegal marketing of the market area controlled substance at the time the individual abuser obtained or used that market area controlled substance.



(b) The individual abuser obtained or used the market area controlled substance, or caused the injury, within the defendant's market area.

(2) If a person participated in illegal marketing of a market area controlled substance, the person's market area for that controlled substance is the following:

(a) For level 4 participation, each county in which the person participated in illegal marketing.

(b) For level 3 participation, each market area described in subdivision (a) plus all counties with a border contiguous to each of those market areas.

(c) For level 2 participation, each market area described in subdivision (b) plus all counties with a border contiguous to each of those market areas.

(d) For level 1 participation, the state.

**History:** 1994, Act 27, Eff. Apr. 1, 1994.

#### **691.1609 Participation in illegal marketing of controlled substance; presumptions.**

Sec. 9. (1) If a defendant under this act has a criminal conviction under state or federal law for an act that constitutes participation in illegal marketing of a controlled substance under this act, that person is conclusively presumed to have participated in illegal marketing of a controlled substance for the purposes of this act.

(2) If a defendant is proven or presumed to have participated in illegal marketing of a controlled substance, that defendant is presumed to have participated during the 2 years before and the 2 years after the date of the participation or conviction, unless the defendant proves otherwise by clear and convincing evidence.

(3) In addition to each county in which a defendant is proven to have actually participated in illegal marketing of a controlled substance, the defendant is presumed to have participated in each county in which the defendant resides, attends school, is employed, or does business during the period of participation. In addition to the counties in which the individual abuser is proven to have obtained or used the controlled substance, the individual abuser is presumed to have obtained or used the controlled substance in each county in which the individual resides, attends school, or is employed during the period of the individual's abuse of that controlled substance, unless the defendant proves otherwise by clear and convincing evidence.

**History:** 1994, Act 27, Eff. Apr. 1, 1994.

#### **691.1610 Recovery of damages, attorney fees, and costs; payment by third party.**

Sec. 10. (1) A person other than an individual abuser who is entitled to a recovery under this act may recover economic, noneconomic, and exemplary damages and reasonable attorney fees and costs, including, but not limited to, reasonable expenses for expert testimony. An individual abuser entitled to recovery under this act may recover economic damages and reasonable attorney fees and costs, including, but not limited to, reasonable expenses for expert testimony.

(2) A third party shall not pay damages awarded under this act, or provide a defense or money for a defense, on behalf of an insured under a contract of insurance or indemnification.

**History:** 1994, Act 27, Eff. Apr. 1, 1994.

#### **691.1611 Writ of attachment; affidavit; hearing; eligibility to exempt property; judgment not subject to discharge under bankruptcy law; use of seized asset to satisfy judgment.**

Sec. 11. (1) After commencing an action under this act and subject to subsection (4), a plaintiff may seek a writ of attachment by filing an ex parte motion supported by an affidavit setting forth specific facts showing all of the following:

(a) A description of the injury claimed and a statement that the affiant in good faith believes that the defendant is liable to the plaintiff in a stated amount.

(b) The defendant is subject to the judicial jurisdiction of the state.

(c) After diligent effort, the plaintiff cannot serve the defendant with process.

(2) If attachment is instituted, a defendant is entitled to an immediate hearing. Attachment may be lifted if the defendant demonstrates that the assets will be available for a potential award or if the defendant posts a bond sufficient to cover a potential award.

(3) Unless precluded by the state or federal constitutions, a person against whom a judgment has been rendered under this act is not eligible to exempt any property, of whatever kind, from process to levy or process to execute on the judgment. Unless the jury, or the court if there is no jury, specifically finds otherwise, the actions for which a person is found liable under this act are willful and malicious, and the judgment is not subject to discharge under federal bankruptcy law as provided in 11 U.S.C. 523.

(4) An asset shall not be used to satisfy a judgment under this act if that asset is named in or has been seized for a forfeiture action by a state or federal agency before a plaintiff commences an action under this

act, unless the asset is released after the forfeiture action or is released by the agency that seized the asset.

**History:** 1994, Act 27, Eff. Apr. 1, 1994.

**691.1612 Cause of action; accrual; tolling of statute of limitations.**

Sec. 12. Except as otherwise provided in this section, a cause of action accrues under this act when a person who may recover has reason to know of the harm from use of an illegally marketed controlled substance that is the basis for the cause of action and has reason to know that the controlled substance use is the cause of the harm. For a plaintiff, the statute of limitations under this section is tolled while the individual potential plaintiff is incapacitated by the use of an illegally marketed controlled substance to the extent that the individual cannot reasonably be expected to seek recovery under this act or as otherwise provided by law.

**History:** 1994, Act 27, Eff. Apr. 1, 1994.

**691.1613 Representation by prosecuting attorney; stay of action; actions against law enforcement officer, agency, or certain persons prohibited.**

Sec. 13. (1) A prosecuting attorney may represent the state or a political subdivision of the state in an action brought under this act.

(2) On motion by a governmental agency involved in a controlled substance investigation or prosecution, an action brought under this act shall be stayed until the completion of the criminal investigation or prosecution that gave rise to the motion for a stay of the action.

(3) An action shall not be brought under this act against a law enforcement officer or agency, or a person acting in good faith at the direction of a law enforcement officer or agency, for participation in illegal marketing of a controlled substance if that participation is in the furtherance of an official investigation.

**History:** 1994, Act 27, Eff. Apr. 1, 1994.

**691.1619 Effective date; applicability of act to action arising on and after April 1, 1994; other actions not precluded.**

Sec. 19. This act shall take effect April 1, 1994. This act applies only to an action arising on and after April 1, 1994. This act does not preclude an action for damages otherwise available on or after April 1, 1994.

**History:** 1994, Act 27, Eff. Apr. 1, 1994.



## EQUINE ACTIVITY LIABILITY ACT Act 351 of 1994

AN ACT to regulate civil liability related to equine activities; and to prescribe certain duties for equine professionals.

**History:** 1994, Act 351, Eff. Mar. 30, 1995.

*The People of the State of Michigan enact:*

### **691.1661 Short title.**

Sec. 1. This act shall be known and may be cited as the “equine activity liability act”.

**History:** 1994, Act 351, Eff. Mar. 30, 1995.

### **691.1662 Definitions.**

Sec. 2. As used in this act:

(a) “Engage in an equine activity” means riding, training, driving, breeding, being a passenger upon, or providing or assisting in veterinary treatment of an equine, whether mounted or unmounted. Engage in an equine activity includes visiting, touring, or utilizing an equine facility as part of an organized event or activity including the breeding of equines, or assisting a participant or show management. Engage in equine activity does not include spectating at an equine activity, unless the spectator places himself or herself in an unauthorized area and in immediate proximity to the equine activity.

(b) “Equine” means horse, pony, mule, donkey, or hinny.

(c) “Equine activity” means any of the following:

(i) An equine show, fair, competition, performance, or parade including, but not limited to, dressage, a hunter and jumper horse show, grand prix jumping, a 3-day event, combined training, a rodeo, riding, driving, pulling, cutting, polo, steeplechasing, English and western performance riding, endurance trail riding, gymkhana games, and hunting.

(ii) Equine training or teaching activities.

(iii) Boarding equines, including their normal daily care.

(iv) Breeding equines, including the normal daily care and activities associated with breeding equines.

(v) Riding, inspecting, or evaluating an equine belonging to another, whether or not the owner receives monetary consideration or another thing of value for the use of the equine or is permitting a prospective purchaser of the equine or an agent to ride, inspect, or evaluate the equine.

(vi) A ride, trip, hunt, or other activity, however informal or impromptu, that is sponsored by an equine activity sponsor.

(vii) Placing or replacing a horseshoe on or hoof trimming of an equine.

(d) “Equine activity sponsor” means an individual, group, club, partnership, or corporation, whether or not operating for profit, that sponsors, organizes, or provides the facilities for an equine activity, including, but not limited to, a pony club; 4-H club; hunt club; riding club; school- or college-sponsored class, program, or activity; therapeutic riding program; stable or farm owner; and operator, instructor, or promoter of an equine facility including, but not limited to, a stable, clubhouse, ponyride string, fair, or arena at which the equine activity is held.

(e) “Equine professional” means a person engaged in any of the following for compensation:

(i) Instructing a participant in an equine activity.

(ii) Renting an equine, equipment, or tack to a participant.

(iii) Providing daily care of horses boarded at an equine facility.

(iv) Training an equine.

(v) Breeding of equines for resale or stock replenishment.

(f) “Inherent risk of an equine activity” means a danger or condition that is an integral part of an equine activity, including, but not limited to, any of the following:

(i) An equine's propensity to behave in ways that may result in injury, harm, or death to a person on or around it.

(ii) The unpredictability of an equine's reaction to things such as sounds, sudden movement, and people, other animals, or unfamiliar objects.

(iii) A hazard such as a surface or subsurface condition.

(iv) Colliding with another equine or object.

(g) “Participant” means an individual, whether amateur or professional, engaged in an equine activity, whether or not a fee is paid to participate.

**History:** 1994, Act 351, Eff. Mar. 30, 1995.

**691.1663 Injury, death, or property damage; liability.**

Sec. 3. Except as otherwise provided in section 5, an equine activity sponsor, an equine professional, or another person is not liable for an injury to or the death of a participant or property damage resulting from an inherent risk of an equine activity. Except as otherwise provided in section 5, a participant or participant's representative shall not make a claim for, or recover, civil damages from an equine activity sponsor, an equine professional, or another person for injury to or the death of the participant or property damage resulting from an inherent risk of an equine activity.

**History:** 1994, Act 351, Eff. Mar. 30, 1995.

**691.1664 Liability; exception; waiver.**

Sec. 4. (1) This act does not apply to a horse race meeting that is regulated by the racing law of 1980, Act No. 327 of the Public Acts of 1980, being sections 431.61 to 431.88 of the Michigan Compiled Laws.

(2) Two persons may agree in writing to a waiver of liability beyond the provisions of this act and such waiver shall be valid and binding by its terms.

**History:** 1994, Act 351, Eff. Mar. 30, 1995.

**691.1665 Liability not prevented or limited; conditions.**

Sec. 5. Section 3 does not prevent or limit the liability of an equine activity sponsor, equine professional, or another person if the equine activity sponsor, equine professional, or other person does any of the following:

(a) Provides equipment or tack and knows or should know that the equipment or tack is faulty, and the equipment or tack is faulty to the extent that it is a proximate cause of the injury, death, or damage.

(b) Provides an equine and fails to make reasonable and prudent efforts to determine the ability of the participant to engage safely in the equine activity and to determine the ability of the participant to safely manage the particular equine. A person shall not rely upon a participant's representations of his or her ability unless these representations are supported by reasonably sufficient detail.

(c) Owns, leases, rents, has authorized use of, or otherwise is in lawful possession and control of land or facilities on which the participant sustained injury because of a dangerous latent condition of the land or facilities that is known to the equine activity sponsor, equine professional, or other person and for which warning signs are not conspicuously posted.

(d) Commits a negligent act or omission that constitutes a proximate cause of the injury, death, or damage.

**History:** 1994, Act 351, Eff. Mar. 30, 1995.

**691.1666 Notice; posting and maintenance of signs; contract; contents of notice.**

Sec. 6. (1) An equine professional shall post and maintain signs that contain the warning notice set forth in subsection (3). The signs shall be placed in a clearly visible location in close proximity to the equine activity. The warning notice shall appear on the sign in conspicuous letters no less than 1 inch in height.

(2) A written contract entered into by an equine professional for providing professional services, instruction, or rental of equipment, tack, or an equine to a participant, whether or not the contract involves an equine activity on or off the location or site of the equine professional's business, shall contain in clearly readable print the warning notice set forth in subsection (3).

(3) A sign or contract described in this section shall contain substantially the following warning notice:

**WARNING**

Under the Michigan equine activity liability act, an equine professional is not liable for an injury to or the death of a participant in an equine activity resulting from an inherent risk of the equine activity.

**History:** 1994, Act 351, Eff. Mar. 30, 1995.

**691.1667 Applicability of act.**

Sec. 7. This act applies only to a cause of action filed on or after the effective date of this act.

**History:** 1994, Act 351, Eff. Mar. 30, 1995.